PATENT APPLICATION
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES
IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application No.:   10/698,648
Applicant: Steven L. Eaton et al.
Filed: October 31, 2003
Title: AUTOMATED REALTY TRANSFER

Art Unit: 3629
Examiner: Naresh Vig

Docket No.:   LDC100AUS

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Appeal Brief under 37 C.F.R. §41.37

Mail Stop Appeal Brief- Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

This appeal brief is submitted as required under 37 CFR § 41.37 in support of an appeal from the final rejection under 35 USC § 103(a) of Claims 1-6, 8-26, 28-46, and 48-60 presented for appeal in the application. Claims 1-75 remain in the application. Claims 1-6, 8-26, 28-46, and 48-60 were elected, and Claims 7, 27, 47, and 61-75 were withdrawn, in response to a restriction requirement dated July 21, 2005. Claims 1-6, 8-26, 28-46, and 48-60 were finally rejected in an Office Action dated October 12, 2011, Paper No. 20111010. A timely Notice of Appeal was submitted under a certificate of mailing under 37 CFR § 1.8(a) January 10, 2012.

The appropriate fee under 37 CFR § 41.20(b)(2) in the amount of $310.00 is enclosed herewith. If any further fee is found to be due, the Commissioner is authorized to charge such to Deposit Account No. 22-0212.

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I.   Real Party in Interest

The real party in interest, as evidenced by the recording in the United States Patent and Trademark Office at reel number 015812, frame number 0959, is LIKEGLUE.com, LLC, a corporation of Michigan.

II.   Related Appeals and Interferences

A related appeal, which has been decided, was filed in this application concerning Claims 1-6, 8-26, 28-46, and 48-60. The appeal number was 2009-005792. A copy of this decision is enclosed herewith and labeled as "Related Proceedings Appendix" pursuant to the provisions of 37 CFR §41.37(c)(1)(x).

III.   Status of the Claims

Claims 1-6, 8-26, 28-46, and 48-60 stand finally rejected under 35 USC § 103(a) as being unpatentable over the teachings of Raveis, U.S. Patent Publication No. 2002/0049624 in view of the teachings of Watanabe, Japanese Patent No. 2001-274946, and the teachings of Ouchi, U.S. Patent No. 5,675,421. Claims 7, 27, 47, and 61-75 stand withdrawn

Claims 1-6, 8-26, 28-46, and 48-60, the finally rejected claims in this application, are the only claims pending in this application. Therefore, Claims 1-6, 8-26, 28-46, and 48-60, the finally rejected claims in this application, are herein being appealed. Clean copies of these claims, as they were amended during the prosecution of this application, are set forth in the enclosed Claim Appendix attached hereto. The status of each claim in the application is as follows:

Claims 1-6:   Rejected

Claim 7:   Withdrawn

Claims 8-26:   Rejected

Claim 27:   Withdrawn

Claims 28-46:   Rejected

Claims 47:   Withdrawn

Claims 48-60:   Rejected

Claims 61-75:   Withdrawn

IV.   Status of Amendments

No reply to the Final Office Action and amendment under 37 CFR § 1.116 was filed.

V.   Summary of the Claimed Subject Matter

Appellants' invention is a centralized system and method for automating the process of transferring real estate (page 3, lines 4-9) and providing a means for electronically storing a copy of each document associated therewith. The invention is performed on one or more servers and is carried out over a distributed computer network that is connected between servers and a plurality of client computers (page 3, lines 5-8). Appellants teach that a unique identification number (page 43, lines 17-18) or document routing number (page 48, lines 29-30) identity is created on the server and information is received thereon from a plurality of sources including real estate databases, computer input devices, facsimile equipment, electronic mail systems, and the like (page 3, lines 8-9). The received information is then associated with a document routing number using a unique identification number associated with the real estate record identity and thereafter, the information is stored on the server according to the document routing number

identity (page 3, lines 12-14; page 31, lines 6-7). In one embodiment of the present invention, the information is conveyed by a faxed communication without the need of a facsimile cover sheet and received from any fax source that is capable of communicating with the server irrespective of the faxed number of the fax source (page 3, lines 15-19). In other words, the server need not recognize a faxed number of the fax source. More importantly, the server includes software that voice prompts a sender of the faxed communication to key input the document routing number which uniquely identifies the property listing within the databases of the system, into the fax source (page 48, lines 26-33). The invention proposes this novel procedure to avoid the use of a facsimile cover sheet as well as to avoid potential errors in the transposition of the unique document routing number on the fax cover sheet.

The present invention is accomplished by using the fax key pad which the user then uses to input the document routing number unique identity (page 48, lines 25-30). Once the unique identity is inputted using the key pad by the fax sender, it is recognized by the server, and the server software is capable of converting the faxed communication into a digital document directly that represents the information to be associated and stored (page 49, lines 1-5). The server software then determines whether the document routing number matches any of the number of unique real estate document routing number identities that are stored on the server (page 48, lines 5-9). If this determination is negative, then the digital document is discarded (page 49, lines 15-17), but if it is positive, then the digital document is saved on the server in accord with its matching real estate document routing number identity (page 49, lines 9-15).

A similar process is used in receiving email communication associated with the real estate transfer (Figures 11a and 11b; pages 51-52, lines 54-22). Accordingly, the system and method for automating real estate transfers is able to be controlled by a broker such that all

communications associated with the real estate transfer (i.e. market appraisals, listing agreements, seller's disclosures, written offers, purchase agreement, mortgage documents, and the like) can be stored in a unique real estate document routing number identity on at least a server and carried over the distributed computer network to a plurality of client computers (page 4, paragraph 13). The real estate broker can restrict third party participation in the real estate transfer, as well as establish calendar templates to be used by real estate agents, as well as limit the various parties associated with the real estate transfer to access the system so that these may actively participate in the automated transaction simply by using either a fax communication or direct access through the internet (page 6, paragraph 33). As is clearly set forth, Appellants further teach, in conjunction with the use of a unique real estate document routing number identity system, a tiered security level (page 11, section IV et seq.) for the various users of the real estate transfer process.

Below is a claim chart setting forth references to page and line numbers of the specification as filed for each element of the independent and dependent claims as required pursuant to 37 CFR § 41.37(c)(1)(v).

Claim 1. A method for automating phases of real estate transfers, said method being centralized on at least one server and carried out over a distributed computer network to a plurality of client computers, said method comprising the steps of:	) } Pg. 3, lines 4-8,) Fig. 1)
creating a real estate record on said at least one server;	Pg. 6, lines 15-17
assigning a document routing number in the form of a unique identification number to said real estate record;	Pg. 31, lines 5-7

receiving information from any fax source capable of contacting said at least one server irrespective of a fax number of said fax source;	Pg. 48, lines 6-16
voice prompting a sender of said information to input said document routing number of said real estate record into said fax source;	Pg. 48, lines 26-33 & Pg. 49, lines 19-27
associating said information to said real estate record using said document routing number; and	Pg. 3, lines 12-24, Pg. 50, lines 18-33 & Fig. 10b
storing said information on said at least one server in association with said real estate record.	Pg. 50, lines 25-33 & Fig. 10b
Claim 2. The method as claimed in claim 1, wherein said receiving step includes receiving at least some portion of a property listing from a multiple listing service.	Pg. 9, lines 31-33 Pg. 10, lines 1-4 Pg. 20, lines 19-26
Claim 3. The method as claimed in claim 1, further comprising the step of transmitting at least a portion of said real estate record to a multiple listing service.	Pg. 10, lines 5-11
Claim 4. The method as claimed in claim 1, further comprising: converting said information into a digital document to be associated and stored in accord with said associating and storing steps.	Pg. 3, lines 15-22 Pg. 49, lines 1-3
Claim 5. The method as claimed in claim 4, wherein said associating step comprises: determining whether said document routing number matches any of a	Pg. 3, lines 22-25

number of a plurality of real estate records; and	
discarding said digital document if said determining step is negative.	Pg. 50, lines 18-24
Claim 6. The method as claimed in claim 5, wherein said storing step comprises saving said digital document on said at least one server in accord with a matching real estate record if said determining step is positive.	Pg. 49, lines 5-10 Pg. 49, lines 7-12
Claim 8. The method as claimed in claim 1, wherein said receiving step includes a listing agent reviewing said information and granting view rights to authenticated users, such that said users can access and view a digital representation of said information.	Pg. 38, lines 19-21 Pg. 48, lines 1-3
Claim 9. The method as claimed in claim 8, wherein said receiving step further includes said listing agent marking said information as secured or unsecured.	Pg. 38, lines 12-18
Claim 10. The method as claimed in claim 1, further comprising the step of providing security clearance and access over said distributed computer network to at least some portions of said real estate record to a plurality of different users depending upon an assigned role of a user among said plurality of different users, said plurality of different users including buyers, sellers, brokers, managers, agents, financial entities, other third parties, or the like.	Pg. 24, lines 11-18 Pg. 38, lines 19-23 Pg. 48, lines 1-4
Claim 11. The method as claimed in claim 1, further comprising the step of providing a masquerade function whereby one of said plurality of different users can masquerade as another of said plurality of different users.	Pg. 14, lines 21-26 Pg. 15, lines 1-3

Claim 12. The method as claimed in claim 1, further comprising the step of tracking activity on said at least one server so as to provide an audit trail of said activity corresponding to said real estate record such as date of access, user identification, and the like.	Pg. 15, lines 1-3; Pg. 15, lines 28-31; Fig. 7; Pg. 19, lines 24-30
Claim 13. The method as claimed in claim 1, wherein said method is administered by a real estate broker.	Pg. 6, lines 4-6 Pg. 6, lines 11-14
Claim 14. The method as claimed in claim 13, further comprising the step of said real estate broker controlling at least a portion of said information, said at least a portion of information including a list of third party companies with whom said real estate record is associated, such that a listing agent must use only third party companies from said list to conduct said real estate transfer.	Pg. 6, lines 2-2 Pg. 10, lines 18-19 Pg. 21, lines 27-31
Claim 15. The method as claimed in claim 13, further comprising the step of said real estate broker controlling at least a portion of said information, said at least a portion of said information including a scheduling master template.	Pg. 37, lines 9-13 Pg. 40, lines 11-16
Claim 16. The method as claimed in claim 15, further comprising the step of automatically generating a schedule for said real estate record from said scheduling master template.	Pg. 38, lines 24-28 Pg. 39, lines 7-14 Pg. 40, lines 4-10
Claim 17. The method as claimed in claim 16, wherein said generating step includes said schedule being automatically populated with a plurality of tasks and associated dates.	Pg. 40, lines 27-33 Pg. 41, lines 1-13
Claim 18. The method as claimed in claim 1, further comprising the step of automatically generating email communications to one or	Pg. 5, lines 1-4 Pg. 15, lines 28-31

more of a plurality of users based on the happening of an event.	Pg. 45, lines 14-17
Claim 19. The method as claimed in claim 1, further comprising the step of automatically generating an email communication containing advertising information from said real estate record.	Pg. 35, lines 14-27 Pg. 36, lines 7-10 Pg. 45, lines 14-17
Claim 20. The method as claimed in claim 1, further comprising the step of generating reports from said real estate record.	Pg. 22, lines 22-23 Pg. 23, lines 14-16 Pg. 55 through Pg. 61, lines 1-6
Claim 21. A system for automating phases of real estate transfers, said system comprising:	
at least one server in a centralized location;	Pg. 3, lines 4-8, Fig. 1
a distributed computer network in communication with said at least one server;	Pg. 3, lines 4-8, Fig. 1
a plurality of client computers in communication with said distributed computer network;	Pg. 3, lines 4-8 Pg. 7, lines 17-22 Fig. 1
means for creating a real estate record on said at least one server;	Pg. 6, lines 15-17
means for assigning a document routing number in the form of a unique identification number to said real estate record;	Pg. 3, lines 8-10 Pg. 31, lines 5-7
means for receiving information from any fax source capable of contacting said at least one server irrespective of a fax number of said fax source;	Pg. 48, lines 6-16 Pg. 48, lines 26-33 Pg. 49, lines 1-5 Fig. 10a

means for voice prompting a sender of said information to input said document routing number of said real estate record into said fax source;	Pg. 48, lines 26-33 Figure 10a
means for associating said information to said real estate record using said document routing number associated with said real estate record; and	Pg. 48, lines 31-33 Pg. 20, lines 18-23 Fig. 10b
means for storing said information on said at least one server in association with said real estate record.	Pg. 49, lines 5-10 Pg. 50, lines 25-33
Claim 22. The system as claimed in claim 21, wherein said means for receiving includes means for receiving at least some portion of a property listing from a multiple listing service.	Pg. 9, lines 31-33 Pg. 10, lines 1-4 Pg. 20, lines 19-26
Claim 23. The system as claimed in claim 21, further comprising means for transmitting at least a portion of said real estate record to a multiple listing service.	Pg. 10, lines 5-11
Claim 24. The system as claimed in claim 21, further comprising: means for converting said information into a digital document to be associated and stored in accord with said means for associating and said means for storing.	Pg. 3, lines 15-25 Pg. 49, lines 1-3
Claim 25. The system as claimed in claim 24, wherein said means for associating comprises: means for determining whether said document routing number matches any of a number of a plurality of real estate records; and means for discarding said digital document if said means for determining is negative.	Pg. 3, lines 22-25 Pg. 50, lines 18-24
Claim 26. The system as claimed in claim 25, wherein said means	

for storing comprises means for saving said digital document on said at least one server in accord with a matching real estate record if said means for determining is positive.	Pg. 49, lines 5-10 Pg. 49, lines 7-12
Claim 28. The system as claimed in claim 21, wherein said means for receiving includes a listing agent reviewing said information and granting view rights to authenticated users, such that said users can access and view a digital representation of said information.	Pg. 38, lines 19-21 Pg. 48, lines 1-3
Claim 29. The system as claimed in claim 28, wherein said means for receiving further includes said listing agent marking said information as secured or unsecured.	Pg. 38, lines 12-18
Claim 30. The system as claimed in claim 21, further comprising means for providing security clearance and access over said distributed computer network to at least some portions of said real estate record to a plurality of different users depending upon an assigned role of a user among said plurality of different users, said plurality of different users including buyers, sellers, brokers, managers, agents, financial entities, other third parties, or the like.	Pg. 24, lines 11-18 Pg. 38, lines 19-23 Pg. 48, lines 1-4
Claim 31. The system as claimed in claim 21, further comprising means for providing a masquerade function whereby one of said plurality of different users can masquerade as another of said plurality of different users.	Pg. 14, lines 21-26 Pg. 15, lines 1-3
Claim 32. The system as claimed in claim 21, further comprising means for tracking activity on said at least one server so as to provide an audit trail of said activity corresponding to said real estate record such as date of access, user identification, and the like.	Pg. 15, lines 1-3 Pg. 15, lines 28-31 Fig. 7

	Pg. 19, lines 24-29
	Pg. 54, lines 1-29
Claim 33. The system as claimed in claim 21, wherein said system is administered by a real estate broker.	Pg. 6, lines 4-6 Pg. 6, lines 11-14
Claim 34. The system as claimed in claim 33, further comprising means for controlling at least a portion of said information by said real estate broker, said at least a portion of information including a list of third party companies with whom said real estate record is associated, such that a listing agent must use only third party companies from said list to conduct said real estate transfer.	Pg. 6, lines 2-3 Pg. 19, lines 18-19 Pg. 21, lines 27-31
Claim 35. The system as claimed in claim 33, further comprising means for controlling at least a portion of said information by said real estate broker, said at least a portion of said information including a scheduling master template.	Pg. 37, lines 8-13 Pg. 40, lines 11-16
Claim 36. The system as claimed in claim 35, further comprising means for automatically generating a schedule for said real estate record from said scheduling master template.	Pg. 38, lines 24-28 Pg. 39, lines 7-14 Pg. 40, lines 4-10
Claim 37. The system as claimed in claim 36, wherein said means for generating includes said schedule being automatically populated with a plurality of tasks and associated dates.	Pg. 40, lines 27-33 Pg. 41, lines 1-13
Claim 38. The system as claimed in claim 21, further comprising means for automatically generating email communications to one or more of a plurality of users based on the happening of an event.	Pg. 5, lines 1-4 Pg. 15, lines 28-31 Pg. 45, lines 14-17
Claim 39. The system as claimed in claim 21, further comprising	Pg. 35, lines 14-27

means for automatically generating an email communication containing advertising information from said real estate record.	Pg. 36, lines 7-10 Pg. 45, lines 14-17
Claim 40. The system as claimed in claim 21, further comprising means for generating reports from said real estate record.	Pg. 22, lines 22-23 Pg. 23, lines 14-16 Pg. 55-61, lines 1-6
Claim 41. A computer readable medium on which is stored computer program code, said computer program code implementing a method for automating real estate transfers, said method being centralized on at least one server and carried out over a distributed computer network to a plurality of client computers, said method comprising the steps of:	
creating a real estate record on said at least one server;	Pg. 6, lines 15-17
assigning a document routing number in the form of a unique identification number to said real estate record;	Pg. 31, lines 5-7
receiving information from any fax source capable of contacting said at least one server irrespective of a fax number of said fax source;	Pg. 48, lines 6-16
voice prompting a sender of said information to input said document routing number of said real estate record into said fax source;	Pg. 48, lines 26-33 Fig. 10a Pg. 49, lines 19-27
associating said information to said real estate record using said document routing number associated with said real estate record; and	Pg. 50, lines 18-33 Fig. 10b
storing said information on said at least one server in association with said real estate record.	Pg. 50, lines 25-33 Fig. 10b

Claim 42. The computer readable medium as claimed in claim 41, wherein said receiving step includes receiving at least some portion of a property listing from a multiple listing service.	Pg. 9, lines 31-33 Pg. 10, lines 1-4 Pg. 20, lines 19-26
Claim 43. The computer readable medium as claimed in claim 41, further comprising the step of transmitting at least a portion of said real estate record to a multiple listing service.	Pg. 10, lines 5-11
Claim 44. The computer readable medium as claimed in claim 41, further comprising: converting said information into a digital document to be associated and stored in accord with said associating and storing steps.	Pg. 3, lines 15-25 Pg. 49, lines 1-3
Claim 45. The computer readable medium as claimed in claim 44, wherein said associating step comprises: determining whether said document routing number matches any of a number of a plurality of real estate records; and discarding said digital document if said determining step is negative.	Pg. 3, lines 22-25 Pg. 50, lines 18-24
Claim 46. The computer readable medium as claimed in claim 45, wherein said storing step comprises saving said digital document on said at least one server in accord with a matching real estate record if said determining step is positive.	Pg. 49, lines 5-10 Pg. 49, lines 7-12
Claim 48. The computer readable medium as claimed in claim 41, wherein said receiving step includes a listing agent reviewing said information and granting view rights to authenticated users, such that said users can access and view a digital representation of said	Pg. 38, lines 9-21 Pg. 48, lines 1-3

information.	
Claim 49. The computer readable medium as claimed in claim 48, wherein said receiving step further includes said listing agent marking said information as secured or unsecured.	Pg. 38, lines 12-18
Claim 50. The computer readable medium as claimed in claim 41, further comprising the step of providing security clearance and access over said distributed computer network to at least some portions of said real estate record to a plurality of different users depending upon an assigned role of a user among said plurality of different users, said plurality of different users including buyers, sellers, brokers, managers, agents, financial entities, other third parties, or the like.	Pg. 24, lines 11-18 Pg. 38, lines 19-23 Pg. 48, lines 1-4
Claim 51. The computer readable medium as claimed in claim 41, further comprising the step of providing a masquerade function whereby one of said plurality of different users can masquerade as another of said plurality of different users.	Pg. 14, lines 21-26 Pg. 15, lines 1-3
Claim 52. The computer readable medium as claimed in claim 41, further comprising the step of tracking activity on said at least one server so as to provide an audit trail of said activity corresponding to said real estate record such as date of access, user identification, and the like.	Pg. 15, lines 1-3 Pg. 15, lines 23-31 Fig. 7 Pg. 19, lines 24-30 Pg. 54, lines 1-29
Claim 53. The computer readable medium as claimed in claim 41, wherein said computer readable medium is administered by a real estate	Pg. 6, lines 4-6 Pg. 6, lines 11-14

broker.	
Claim 54. The computer readable medium as claimed in claim 53, further comprising the step of said real estate broker controlling at least a portion of said information, said at least a portion of information including a list of third party companies with whom said real estate record is associated, such that a listing agent must use only third party companies from said list to conduct said real estate transfer.	Pg. 6, lines 2-3 Pg. 19, lines 18-19 Pg. 21, lines 27-31
Claim 55. The computer readable medium as claimed in claim 53, further comprising the step of said real estate broker controlling at least a portion of said information, said at least a portion of said information including a scheduling master template.	Pg. 37, lines 9-13 Pg. 40, lines 11-16
Claim 56. The computer readable medium as claimed in claim 55, further comprising the step of automatically generating a schedule for said real estate record from said scheduling master template.	Pg. 38, lines 24-28 Pg. 39, lines 7-14 Pg. 40, lines 4-10
Claim 57. The computer readable medium as claimed in claim 56, wherein said generating step includes said schedule being automatically populated with a plurality of tasks and associated dates.	Pg. 40, lines 27-33 Pg. 41, lines 1-13
Claim 58. The computer readable medium as claimed in claim 41, further comprising the step of automatically generating email communications to one or more of a plurality of users based on the happening of an event.	Pg. 5, lines 1-4 Pg. 15, lines 28-31 Pg. 45, lines 14-17
Claim 59. The computer readable medium as claimed in claim 41,	

further comprising	Pg. 35, lines 14-27
the step of automatically generating an email communication containing	Pg. 36, lines 7-10
advertising information from said real estate record.	Pg. 45, lines 14-17
Claim 60. The computer readable medium as claimed in claim 41,	Pg. 22, lines 22-23
further comprising	Pg. 23, lines 14-16
the step of generating reports from said real estate record.	Pg. 55-61, lines 1-6

VI.   Grounds of Rejection to be Reviewed on Appeal

1.   Is the rejection of Claims 1-6, 8-26, 28-46, and 48-60 under 35 USC §103(a) as being

unpatentable over the teachings of Raveis, U.S. Patent Publication No. 2002/0049624 in

view of the teachings of Watanabe, Japanese Patent No. 2001-274946 and the teachings

of Ouchi, U.S. Patent No. 5,675,421, proper as a matter of law?

VII.   Arguments

Issue 1

The 35 USC §103(a) Rejection

It is imperative to apply the proper test in addressing the specific 35 USC §103(a)

rejection set forth by the Examiner. The following sets forth the test to be applied in the

examination of the 103 rejection.

With respect to the rejection under 35 USC §103, it is noted in MPEP § 706 that the

standard of patentability to be followed in the examination of a patent application is that which

was enunciated by the Supreme Court in *Graham v. John Deere*, 148 USPQ 459 (1966), where

the Court stated:

"Under Section 103, the scope and the content of the prior art are to
be determined; differences between the prior art and the claims at
issue are to be ascertained; and the level of ordinary skill in the
pertinent art resolved."

Accordingly, to establish a prima facie case of obviousness, the Patent Office must: (1)

set forth the differences in the claim over the applied references; (2) set forth the proposed

modification of the references which would be necessary to arrive at the claimed subject

matter; and (3) explain why the proposed modifications would be obvious. To satisfy step (3)

above, the Patent Office must identify where the prior art provides a motivating suggestion,

inference, or implication to make the modifications proposed in step (2) above. *In re Jones*, 21

USPQ2d 1941 (Fed. Cir. 1992).

The mere fact that the prior art may be modified by the Examiner does not make the

modification obvious unless the prior art suggests the desirability for the modification. *In re*

Fritch, 23 USPQ2d 1780 (Fed. Cir. 1992). In the present case, the Examiner has failed to make

a proper prima facie showing of obviousness since the Examiner has failed to show how the

prior art suggests the desirability of the proposed modification.

Scope and Content of the Prior Art and the Invention

Raveis, U.S. Patent Publication No. 2002/0049624 was cited by the Appellants upon the

filing of their application, and is directed to the shortcomings of business models for real estate

companies that fail to maintain customer relations and leave a homeowner trying to manage

repairs and improvements with little more than a telephone book for assistance (¶ 0014).

To prevent these problems, Raveis teaches an improved system and method of using a

distributed computer network to facilitate managing customer relationships and the information

pertaining thereto in a real estate transaction (¶ 0016). In particular, the system and method provides for storing data (i.e. actual and estimated completion dates) relating to and coordinating the multitude of tasks associated with the estimated completion date versus actual completion date for stages of a real estate transactions (see Raveis, abstract). The method includes the steps of generating a customer record including data entry fields only <u>for entering an estimated completion date and an actual completion date for each of a plurality of stages of a real estate transactions</u>; providing a customer access to the customer record over a distributed computer network to facilitate the entry, by the customer, <u>of only estimated and actual completion dates for the stages of the real estate transactions</u> (¶ 0018); providing a real estate agent access to the customer record over the distributed computer network to facilitate the entry, by the real estate agent, only of estimated and actual completion dates for various stages of the real estate transaction (¶ 0018); providing a transaction coordinator access to the customer record through a server based application to facilitate the entry, by the transaction coordinator, of only estimated and actual completion dates for stages of the real estate transactions in appropriate fields of the customer record (¶ 0018); indicating, in an appropriate field of the customer record, an identity of the entrant of an actual completion for a stage of the real estate transactions; and providing a hyperlink from the customer record to a site of a marketing partner associated with a stage of the real estate transactions (¶ 0018).

Raveis further teaches to provide an entity access to the customer records, to facilitate entry, by the entity, <u>of only estimated and actual completion dates for stages of real estate transactions</u> in appropriate fields of the customer record, wherein the entity is selected from the group consisting of a customer, real estate agent and transaction coordinator; and indicating, in an appropriate field of the customer record, the identity of the entity that entered an actual

completion date for a stage of the real estate transactions (¶ 0019). Further, Raveis teaches that the distributed computing network maybe the internet.

Raveis further teaches that transaction tracking involves a series of activities or tasks related to the home sale or home purchase process. The schedules are developed to define a time table, track completed items and include related information, i.e. the transaction tracking process. These time schedules are completely different than storing all documents related to the home sale and home purchase process. The process of transaction tracking can be classified into distinct stages (¶ 0021). Customizable transaction tracking templates allow a combination of different stages to be included within each time schedule. The stages included within the transaction process can be contingent upon a number of factors. Some of these factors include, but are not limited to, whether a transaction is a home sale or purchase, real estate practices within specific geographic areas, federal, state and local laws, or real estate broker preferences (¶ 0021).

In summary then, it is clear that Raveis's teachings are basically limited to providing access to a customer and a real estate agent to the customer record only to fields for entering an estimated date and an actual completion date for each of a plurality of stages of the real estate transactions over the distributed computing network to facilitate entry of estimated and actual completion dates for stages of real estate transactions.

Watanabe is directed to labor burdens and compromised conservation goals because a document to be faxed must first be printed out and then transmitted using a fax machine (6) to transmit the document to a destination fax machine (7). (Page 1, Summary; Fig. 5) As a solution to this problem, Watanabe teaches transmitting a special cover sheet having receiver ID information and being attached to the document to be faxed. In accordance with these teachings, Watanabe discloses an electronic filing method. First, a special cover sheet is processed through

an image scanner (31) (Fig. 1; Fig. 2, ST1; ¶ 0025). Second, scanned image information of the special cover sheet is received into an electronic computer terminal (23) (Fig. 1; Fig. 2, ST2; ¶ 0025). Third, a communications document (e.g. letter, etc) is imaged on the computer terminal and combined with the special cover sheet (Fig. 3, ST3; ¶ 0025). Fourth, a fax transmission request is made on the computer terminal and sent to a fax server (30) with the combined communication document and associated cover sheet (Fig. 2, ¶ 0026). Fifth, a reply is received affirming acceptance of the transmission (Fig. 2, ST5; ¶ 0027). Sixth, the fax server transmits the image information to a DSP electronic filing device (12) (Fig. 1; Fig. 2, ST7; ¶ 0026). Seventh, the image information is received (Fig. 2, ST8; ¶ 0027). Eighth, the fax server executes a routine for decoding the receiver ID information scripted on the special cover sheet (Fig. 2, ST9; ¶ 0027). Ninth, the fax server specifies a document storage area for a receiver (client) at an electronic filing server (29) and stores the image information of the communications document in the document storage area (Fig. 1; Fig. 2, ST10; ¶ 0028). Tenth, the fax server issues a reception notice to an electronic computer terminal (26) being operated by the receiver (client) (Fig. 1; Fig. 2, ST11; ¶ 0029).

Ouchi, U.S. Patent No. 5,675,421, is directed to problems associated with the use of a facsimile transmission where the prior art is only capable of receiving image data of incoming facsimile transmissions when the facsimile reception is in a "possible condition." If the facsimile reception is in an "impossible condition" the prior art facsimile machine is incapable of receiving image data of incoming facsimile transmissions.

To solve this problem, Ouchi teaches to provide a facsimile machine wherein regardless of whether the facsimile machine is capable of receiving facsimile transmissions, reception processes are performed during the remote operation mode of the facsimile machine, thereby

increasing convenience of the remote operation mode to callers. Ouchi accomplishes such objective by providing a remote operation mode enabling a caller from a remote device to access and retrieve data from the facsimile machine, includes a memory for storing the data to be accessed and retrieved by a caller during the remote operation mode; as well as a switching means for turning on and off the remote operation mode; facsimile reception determination means for determining which of a facsimile reception "possible condition" and a facsimile reception "impossible condition" that defects any machine is in; and reception process means for performing when the facsimile reception determination means determines that the facsimile machine is in a facsimile "reception possible" condition, reception of an incoming call regardless of whether the switching means has turned the remote operation mode on or off and for performing reception of the incoming call when both the facsimile reception determination means determines that the facsimile machine is in facsimile reception "impossible condition" and the switching means has turned the remote operation mode on. Ouchi teaches that this is accomplished in the remote operation mode wherein a caller from a remote operation can retrieve data stored in memory of the RAM. The remote operation mode can be set by switching on the remote operation mode on/off switch 23 provided to the operation portion 9. The fax includes a mailbox function wherein the caller accesses one of the mailboxes using a remote telephone or a facsimile machine. Then the caller can either transmit voice data or image data, and store it in the mailbox or by entering from the remote telephone or facsimile machine a preset password corresponding to the accessed mailbox, can retrieve voice data, image data, or both pre-stored in the mailbox. In effect, the mailbox function allows anyone from a remote place to store data into a selected mailbox. However, only people who know the password for the mailbox can retrieve data from the mailbox from a remote place. That is, the data stored in

the mailbox is confidential. Note that Ouchi nowhere discloses prompting for a document routing number or unique identification number.

Appellants' invention is directed to problems associated with a real estate process, i.e. buying or selling a home or business, which is typically accomplished through an assortment of communication mediums that are not integrated and often not in digital form. Also, in accomplishing this assortment of communications, realtors find themselves carrying out a variety of manual tasks, coordinating schedules of various parties involved in the process or personally delivering and dropping of documents to complete the process. Such traditional process requires a realtor to spend an inordinate amount of time actively managing mundane details, instead of spending time with more rewarding and value added responsibilities like counseling their clients, the marketing of properties, networking with other real estate professionals, and cross-selling real estate related services.

Numerous prior art real estate project managements offer packages that have been recently developed but present incomplete solutions, in that, they do not address all tasks within all phases of the real estate transfer process from prelisting to post-listing and final closing. Most available prior art technology do not provide a comprehensive approach to facilitating the handling and storing of documents throughout the entire real estate transfer process according to existing real estate industry practices, wherein a real estate professional such as a broker, orchestrate all activities associated with the transfer.

Accordingly, Appellants teach automating the process of transforming real estate through the use of a centralized filing system and method for automating the process of transferring real estate. The invention is performed on one or more servers and is carried out over a distributed computer network that is connected between servers and a plurality of client computers.

Appellants teach as set forth in the independent claims, that a real estate document routing number in the form of a unique identification number is created on the server and information in the form of documents (i.e., market appraisals, listing agreements, seller's disclosures, written offers, purchase agreements, mortgage documents and the like) is received from a plurality of sources including real estate databases, computer input devices, facsimile equipment, electronic mail systems, and the like. The received information is then associated with the real estate record identity using a document routing number and thereafter all of the information concerning the handling and storing of all documents throughout the real estate transaction process is stored on the server according to the document routing number. In one embodiment of the present invention, the information is conveyed by a faxed communication without the need of a facsimile cover sheet and associated image scanner as disclosed by Watanabe and received from any fax source that is capable of communicating with the server irrespective of the faxed number of the fax source (pg. 3, lines 15-19). In other words, the server need not recognize a faxed number of the fax source. More importantly, the server includes software that voice prompts a sender of the faxed communication to key input the document routing number which uniquely identifies the property listing within the databases of the system before the fax document is placed into the fax source (pg. 48, lines 26-33). The invention proposes the novel procedure to avoid the use of a facsimile cover sheet as well as to avoid potential errors in the transposition of the unique document routing number placed on the fax cover sheet.

This is accomplished by using the fax key pad which the user then uses to input the document routing number. Once the document routing number is input by the fax sender it is recognized by the fax server, and the fax server software is capable of converting the faxed communication into a digital document directly that represents the information to be associated

and stored. The server software then determines whether the input document routing number matches any of the number of real estate record identities that are stored on the server. If this determination is negative, then the digital document is discarded, but if it is positive, then the digital document is saved on the server and accord with its matching real estate document routing number.

A similar process is used in receiving email communication associated with the real estate transfer. Accordingly, the system and method for automating real estate transfers is able to be controlled by a broker such that all communications associated with the real estate transfer can be stored in a real estate record identity using the document routing number as a unique identification number on at least a server and carried over the distributed computer network to a plurality of client computers. The real estate broker can restrict third party participation in the real estate transfer, as well as establish calendar templates to be used by real estate agents, as well as limit the various parties associated with the real estate transfer to access the system so that these may actively participate in the automated transaction simply by using either a fax machine or direct access through the internet with knowledge of the document routing number. As is clearly set forth in the specification, Appellants further teach, in conjunction with the use of the real estate transfer system, a tiered security level for the various users of the real estate transfer process. By providing access to any entity associated with the transfer of real estate, through the use of the document routing number a complete history of the transaction process is obtained on the server and all documents are stored and open to inspection by those having proper security status.

The differences between Appellants' invention and the prior art references cited by the Examiner in the rejection under 35 USC § 103 are quite clear. The solutions taught by each of

the references are directed to problems quite different than that disclosed by Appellants'

invention. For example, Raveis is directed to the problems associated with managing customer

relations in real estate transactions. Accordingly, a customer record (not a real estate record

identity in the form of a document routing number) is generated in Raveis but it only contains

fields to enter estimated completion and actual completion dates for each of a plurality of

identified stages of real estate transactions. Nowhere in Raveis is it taught to identify all

documents related to a real estate transfer with a document routing number so as to enable

storing of a variety of documents on appropriate servers so as to provide access to all documents

by authorized persons. Further, Watanabe is directed to problems associated with the handling of

documents needed to be transferred via facsimile to a facsimile file server. The prior art before

Watanabe required that it was first necessary to print out a document and then transmit the

document to the destination facsimile by using an initiation facsimile. Accordingly, a significant

labor burden was experienced in accomplishing this process. To avoid this wasteful process,

Watanabe teaches the use of a special cover sheet on which receiver ID information for

identifying receivers is scripted. The cover sheet is first processed through an image scanner

(31) to decode the information thereon. The output of the image scanner (31) is sent to an

electronic computer terminal (23) (Fig. 2) where it is combined with a communication document

which is prepared by the electronic computer terminal (23). A facsimile transmission request is

prepared on the electronic computer terminal (23) and sent to the fax server (30) (Fig. 2) with the

combined communication document and accompanying imaged cover sheet (Fig. 2, ¶ 0026). A

reply is received affirming acceptance of the fax transmission request and associated documents.

Upon the reception of the respective sets of image information on the special cover sheet and

communication document, the fax server (30) transmits via fax, the gathered information to the

DSP electronic filing device (12) via the internet. Watanabe therefore teaches the use of a scanned cover sheet and a facsimile transmission request before the fax can be sent.

The fax server (30) of the electronic filing device (12) executes, upon the reception, via fax, of the respective sets of image information on the special cover sheet and communications document, a routine for decoding the receiver ID information being scripted on the special cover sheet. The receiver ID information is scripted on a specified area of the special cover sheet and can therefore be recognized based on the scanning of said specified area.

Upon decoding of the receiver information, the fax server (30) of the DSP control parameter reception unit (12) specifies the document storage area for the receiver (client) at the electronic filing server (29) based on the receiver ID information and then stores the image information on the communications document into a document storage area.

On the other hand, Ouchi is directed to a problem identified with prior art fax machines wherein unless the receiving fax was in a facsimile reception "possible condition" communication with such facsimile was not possible.

Ouchi solved the problem by providing a facsimile reception determination unit for determining which of a facsimile reception "possible condition" and a facsimile reception "impossible condition" that the facsimile machine was in. Ouchi further proposes a reception process unit for performing a reception of an incoming call regardless of whether the facsimile is in "impossible condition" or "possible condition" by using a remove operation mode switch. Ouchi teaches the receiving of data and images and voice prompting for a mailbox number and a preset password corresponding to the accessed mailbox.

If, as the Examiner suggests, Raveis. is combined with the teachings of Watanabe and/or the teachings of Ouchi in an attempt to obviate Appellants' invention, it is clear from the

teachings set forth in Raveis as well as Watanabe and Ouchi that the suggested combination could not result in Appellants' invention and would in fact require extensive additional structure in an attempt to acquire similar results. Even if accomplished, it must be pointed out that if the teachings of Raveis are combined with the teachings of Watanabe the resulting effect would be a method of tracking estimated completion dates versus actual completion dates for stages of a real estate transaction over a distributed computer network by the use of a computer terminal and by generating a customer record with entry fields for entering only estimated completion and only actual completion dates for each of a plurality of stages of a real estate transaction and then preparing a facsimile cover sheet for fax communication and processing such cover sheet through an image scanner to decode the information thereon. Thereafter, Watanabe teaches that the cover sheet and decoded image document be sent back to the electronic computer terminal that prepared the cover sheet so that it can be combined with the customer record document containing the actual and estimated completion dates and sent by preparing a facsimile transmission request to the fax server. Upon reception of the respective sets of image information on the special cover sheet and customer record document, the fax server transmits via fax, the gathered information. During this communication by the fax server a routine for decoding the receiver ID information is scripted on a specified area of the special cover sheet and can therefore be recognized based on scanning of the special area. In order to enable the teaching of Ouchi with the teachings of Raveis it would be necessary to add a facsimile reception determination unit and a reception process unit for performing reception of an incoming call regardless of the state of use of the facsimile. However, Raveis completely fails to define a receiver ID in any way, shape, or form. What is exactly to be done with this faxed communication is certainly not clear from the teachings of Raveis, Watanabe, or Ouchi, in that,

Raveis makes absolutely no disclosure with respect to how this faxed communication is to be accommodated into the real estate transaction system by the server software in the form of <u>an estimated or actual completion date of what?</u> Further Watanabe's receiver ID may or may not be an identification and certainly is not a document routing number or unique identification number according to his disclosure document. Accordingly, even if the teachings of Watanabe and/or Ouchi were combinable with the teachings of Raveis it would still require a special cover sheet which needs to be scanned by an image scanner associated with a computer terminal that prepares the customer record document in order to attempt to fax communications which is needed to be decoded by the fax server associated with the network so that it may be stored thereon.

The Examiner's comments with respect to independent Claims 1, 21, and 42 under the rejection under 35 USC §103(a) is not well taken. For example, the Examiner interprets the Raveis' teaching as an automated phase of real estate transfer (storing data related to and coordinating the multitude of tasks associated with the purchase of or a sale of a property from the contract to close). Frankly, this is an incorrect interpretation of the Raveis' teachings in that Raveis <u>teaches only the task of entering an actual completion date for each of a plurality of stages of a real estate transactions and compare such actual completion date to an estimated completion date of each specific stage.</u> Other than that, Raveis' teachings are limited to only establishing a field for estimated and actual completion dates for various stages of a real estate transactions. Raveis nowhere teaches the method for automating the transfer of real estate by providing a centralized server connected to a distributor computer network that is connected between a plurality of client computers and wherein a real estate record or unique identification number is created over the centralized server so that all of the <u>documents generated during the complete</u>

phase of a realty transfer can be automatically exchanged between the various users and stored on the centralized server by the use of a unique identification number or document routing number. Therefore, the interpretation given by the Examiner to the teachings of Raveis is grossly exaggerated by reading into Raveis the teachings of Appellants' invention. Also, the fact that Watanabe teaches the capability and concept of receiving and sending information via fax does not provide to a person skilled in the art the information necessary in order to teach Appellants' invention. For example, according to the Examiner, Watanabe teaches assigning a unique identity number to a record in a database. This language cannot be found in Watanabe. What Watanabe indeed teaches is the use of a cover sheet for a facsimile transmission document on which a receiver ID is found which consists of information for identifying receivers not real estate transactions. Nowhere does Watanabe disclose the need for a unique identification number. In fact, in order to use the teachings of Watanabe, it is necessary to obtain an image scanner in order to decode the cover sheet to use it in Raveis' system. Further in order to attempt to use the teachings of Ouchi with the teachings of Raveis it is necessary to obtain a reception process unit in order to determine whether the facsimile machine is in a "reception possible condition" or "reception impossible condition." Further, nowhere does Watanabe teach that there is voice prompting to the sender to input the unique record identifier. From this limited teaching, the Examiner concludes that it is old and known technology for prompting a user to solicit input from the user (user's are guided on using the system by voice prompting them to solicit appropriate input, e.g. in voicemail, users are prompted step-by-step to inform them how to store messages for a particular user mailbox or retrieve voicemail by prompting users to provide their mailbox ID and password). Yet, no reference has been cited by the Examiner for this "old and known technology." The Examiner readily admits that Watanabe does not teach

whatever the Examiner considers as "well known" (see page four of the latest Office Action) yet

no other prior art which makes this well known technology was cited by the Examiner. Further,

what is "well known" today was not so well known when the application was filed in October

2003. Accordingly, the undersigned respectfully submits that the rejection under 35 USC §103

does not follow the requirements of M.P.E.P § 706.02(j) guidelines which states:

> "After indicating that the rejection is under 35 USC § 103, the
> Examiner should set forth in the Office Action . . . (B) the
> difference or differences in the claim over the applied reference(s),
> (C) the proposed modification of the applied reference(s) necessary
> to arrive at the claimed subject matter, and (D) an explanation of
> why one of ordinary skill in the art at the time the invention was
> made would have been motivated to make the proposed
> modification . . . The teaching or suggestion to make the claimed
> combination and the reasonable expectation of the success must
> both be found in the prior art and not based on applicant's
> disclosure." *In re Vacek,* 947 F.2d 488, 20 USPQ2d 1438 (Fed.
> Cir. 1991).

As discussed in detail below, Appellants respectfully submit that there is no teaching or

suggestion in Raveis, Watanabe, or Ouchi that their teachings may be combined so as to attempt

to provide the present invention as recited in the claims and such motivation only comes from

Appellants' disclosure. This approach constitutes impermissible hindsight and must be avoided.

Here, the Office Action does not set forth proposed modifications of the applied

references. The Office Action concludes that it would be obvious "to modify Raveis as taught

by either Watanabe or Ouchi..." But Watanabe or Ouchi do not even mention Raveis; much less

teach any modifications to Raveis. Notably, the Office Action does not propose any specific

modifications of each of the Raveis, Watanabe, or Ouchi references, as required under M.P.E.P.

§ 706.02(j), that would be necessary to successfully combine the references to arrive at the

claimed subject matter.

It is the Examiner that proposes these modifications after having the benefit of reading

Appellants' specification. However, the Examiner is completely silent as to the need of the

significant structural changes required in Appellants' automating phases of real estate transfers,

should an attempt be made by a person skilled in the art to combine the several teachings of

Ouchi and Watanabe with those of Raveis. For example, an image scanner would need to be

added to Appellants' disclosure pursuant to the teachings of Watanabe. Further, according to

Ouchi, a facsimile reception determination unit for determining which of a facsimile reception

"possible condition" and a facsimile reception "impossible condition" that the facsimile machine

is in would also be needed. Appellants assert that the Examiner's failure to propose specific

modifications is evidence that such a combination is not reasonably desirable or feasible, which

militates against the obviousness rejection of Appellants' invention. In any case, the Office

Action does not adequately communicate the basis for the obviousness rejection such that

Appellants have not been given a full and fair opportunity to develop a reply. In other words, the

Examiner has not articulated a sufficient reason why one skilled in the art would have attempted

to modify the prior art and arrive at the presently claimed subject matter. Therefore, Appellants

respectfully assert that the Examiner has not met his burden of articulating a prima facie case of

obviousness.

In view of the Board's decision of February 19, 2010 as well as the Board's decision on

the Request for Rehearing on July 9, 2010, the claims were amended to more clearly set forth the

invention. In the Board's decision, the Board improperly interpreted that the record identifier

assigned to each real estate record may be any field in the customer record. This is contrary to

the specification as set forth in paragraph number 134 which unequivocally states the following:

> "Each property listing is assigned a **unique** record identifier or
> identification number. This record identifier becomes known as

the Document Routing Number (DRN) for Digital Document
Management (DDM)." (emphasis added)

Therefore, the Board concluding that any "field in the customer's record, such as an

address, which is unique (FF7)" as support for its finding, is erroneous. A person skilled in the

art will recognize that an address is not a unique identification number if that number is to be

used in conjunction with a fax keypad. It is well known that the fax input relies on a tone to

identify the input. Therefore, the tone for the numeric character 1 represents the alpha characters

A, B, or C. Since an address will always have alpha characters when these are input into a fax

keypad the receiving fax cannot distinguish when 1 is pressed whether it represents an A, B, or

C. Therefore, an address field cannot be relied on as a unique field for practicing the present

invention. Further, the Board cited finding of fact 7 which refers to Raveis paragraph numbers

17 and 18 as support therefore is also erroneous. In reviewing these paragraphs, it is clear that

Raveis discloses nowhere that documents are stored in the system. Raveis only supports the

storage and input of actual and estimated completion dates. Therefore, Raveis provides no

support whatsoever for such finding since the records generated in Raveis are entries for entering

an estimated completion date and an actual completion date for each of a plurality of stages of

real estate transactions. This information is not unique nor is it a unique real estate record or

identification number.

Further, the Board, in its decision, concluded that "with regard to the prompting step, we

find that a user is always prompted to initiate a fax transmission." No authority or finding of fact

was cited for this statement.

A user of a fax is generally prompted by a tone to put in a fax phone number before

making a fax transmission. The independent claims have been clarified to make clear that this

prompting step is a "voice prompting" to the sender to input the unique record identifier or

document routing number after inputting a fax phone number. This is supported by the specification at page 48, lines 26-27. The comment by the Board regarding the prompting step is not supported by law or fact nor is it understood by the undersigned. The voice prompting step eliminates the need for a scanner as proposed by Watanabe as well as the handling of the decoded cover sheet and associated communication prior to establishing communication with the fax server as is clearly proposed by Watanabe. The simple entry of the document routing number following the voice prompt begins the facsimile communication without the need of decoding the cover sheet and making a fax transmission request on an associated computer terminal. Therefore, Appellants' invention teaches contrary to Watanabe's requirement of an image scanner to decode the receiver ID information on the cover sheet.

Accordingly, the independent claims as amended now teach the structure for two features not found in the prior art, that is, a unique record identifier or identification number known as the document routing number (DRN) as well as eliminates Watanabe's need for an image scanner to decode a prior cover sheet designed to decode the receiver ID since Appellants' invention voice prompts the sender to key in the unique document routing number also known as the unique record identifier or unique identification number after the fax number has been dialed.

A final comment must be made with respect to the combination of either Watanabe or Ouchi with the teachings of Raveis. Even if the structure of the Watanabe fax could be changed as proposed by the Examiner to receive the Watanabe fax, it is important to note that the only thing that Raveis is looking for is either <u>an actual completion date for a stage in the realty process or an estimated completion date</u>. Therefore, even if Watanabe could communicate with Raveis, Raveis does not support receiving realty documents, i.e. listing agreements, offers to purchase, mortgage documents and the like by fax and store these as part of the real estate process. It

clearly teaches only the maintenance of actual as well as estimated completion dates for several stages of the realty process.

In view of the foregoing remarks, it is respectfully submitted that the rejection of Claims 1, 21, and 41 under 35 USC § 103(a) is improper as a matter of law, and the Examiner's decision to reject these independent claims should be reversed.

Claims 2, 22, and 42

As set forth above, Appellants respectfully submit that there is no suggestion, inference, or motivation to combine the teachings of Raveis and Watanabe or Ouchi in order to obviate the independent Claims 1, 21, and 41. Further, such attempt to combine the teachings would necessitate additional extensive structure Further, dependent Claims 2, 22, 42 recite additional structural features which patentably distinguish over the cited prior art. Claim 2, directly depends from Claim 1, Claim 22 directly depends from Claim 21, and Claim 42 directly depends from independent Claim 41. As a result of these dependencies, these claims contain all the features of the referenced independent claims. Therefore, in view of the above-legal argument Claims 2, 22, and 42 are also submitted to be patentably distinguishable over the teachings of Raveis when combined with the teachings of Watanabe or Ouchi and accordingly it is respectfully submitted that the rejection of dependent Claims 2, 22, and 42 under 35 USC § 103(a) is improper as a matter of law.

Claims 3, 23, and 43

Dependent Claims 3, 23, and 43 recite transmitting the real estate record to a multiple listing service. Raveis in ¶ 0099 teaches submitting the property listing to a multiple listing service. Appellants teach the use of a unique document routing number identifier to accomplish this element. Raveis is completely silent as to the definition of a property listing as well as to the

meaning of a customer record. Again, the Examiner is using the liberty of having learned Appellants' teachings and reading such teachings into the Raveis prior art. Such hindsight reconstruction is not permissible by law. Additionally, Claim 3 depends from independent Claim 1, Claim 23 depends directly on independent Claim 21, and Claim 43 depends on independent Claim 41, and by virtue of this dependency, the dependent claims contain all the structural features of the independent claims from which they depend. For all of these reasons, Claims 3, 23, and 43 are submitted to be patentably distinguishable over the cited prior art, and therefore, it is respectfully submitted that the rejection of Claims 3, 23, and 43 under 35 USC § 103(a) is improper as a matter of law.

Claims 4, 24, and 44

These dependent claims by principle of dependency add the limitation of converting the information received into a digital document to each of the independent claims they respectively depend from. Watanabe, at page 11, lines 5-20, disclosed converting the cover page image into a document code. Again, the Examiner is taking the liberty of reading the Appellants' teaching into the language of Watanabe to reject these dependent claims. Watanabe is completely silent in defining what a document code is and the Examiner is using hindsight to read into Watanabe that the document code is a digital document without considering the fact that a scanner is required to read the cover sheet. Appellants do not need a scanner to accomplish this feature. Again, this impermissible hindsight is not well taken. In view of the principle of dependency, Claims 4, 24, and 44 contain all the elements of the independent claims from which they directly depend. Therefore, for all of the above reasons set forth, the rejection of Claims 4, 24, and 44 under 35 USC § 103(a) is improper as a matter of law.

Claims 5, 25, and 45

As is clearly set forth at page 36, Watanabe teaches a "receiver 10" but completely fails to identify "receivers" nor does Watanabe define a receiver ID in any way, shape or form within the complete prior art reference. Therefore, it is not known whether Watanabe's "receiver ID" is an identifier for a "real estate record" as it is taught by Appellants' invention and is set forth in the claims. Therefore, the Examiner's conclusion that Watanabe's "receiver ID" is identical to Appellants' 'identifier" or "real estate record" is error. For these reasons and the fact that dependent Claims 5, 25, and 45 contain all the structural elements of the independent claims from which they depend, the rejection of Claims 5, 25, and 45 under 35 USC § 103(a) is improper as a matter of law.

Claims 6, 26, and 46

As set forth in the last argument, the "receiver ID" taught by Watanabe is nowhere defined and cannot be equated to Appellants' "unique identifier" without committing impermissible hindsight reconstruction. Therefore, saving the incoming document in accord with a matching real estate record as set forth in Claims 6, 26, and 46 which either directly or indirectly depends on their respective independent claims and contains each and every structural element of the independent claim is not obviated by the combination of the prior art as set forth above. Accordingly, the rejection of Claims 6, 26, and 46 under 35 USC § 103(a) is improper as a matter of law.

Claims 8, 28, and 48

These claims depend directly on their respective independent claims. ¶ 0028 of Watanabe and ¶ 0007 of Raveis or Ouchi teach absolutely nothing about a listing agent granting view rights to authenticate users or implementing security and measures with regard to stored

information as is clearly claimed in Claims 8, 28, and 48. Further, these dependent claims incorporate all the structural elements of the independent claims from which they directly depend. Therefore, it is respectfully submitted for the reasons set forth hereinabove, the rejection of Claims 8, 28, and 48 under 35 USC § 103(a) is improper as a matter of law.

Claims 9, 29, and 49

As set forth in the argument for dependent Claims 8, 28, and 48, neither Raveis in ¶ 0007 nor Watanabe in ¶ 0028 teach anything about a listing agent granting viewing rights or implementing security measure. Therefore, since each of these claims indirectly depend from respective independent claims, each structural element of the independent claims, by virtue of dependency, is contained in these dependent claims. For the above reasons, the rejection of dependent Claims 9, 29, and 49 under 35 USC § 103(a) is improper as a matter of law.

Claims 10, 30 and 50

Raveis teaches that the marketing operations manager determines security protocols. However, it is clearly set forth hereinabove that Raveis teaches the creation of a "customer record" which is not defined in the complete disclosure of Raveis. The Examiner has taken the liberty of equating the "customer record" to the "identifier" taught by Appellants' invention. Again, as hereinabove set forth, this type of hindsight reconstruction is impermissible since dependent Claims 10, 30, and 50 directly depend from their respective independent claims and by virtue of this dependency, each of these dependent claims contain all of the structural elements of the respective independent claims from which each depends. The rejection with regard to Ouchi is not well taken. In Ouchi's complete disclosure, terms such as "computer network," "buyers," "sellers," "brokers," "agents," "financial entities" or "third parties" are not found in the specification. None of the teachings of Ouchi apply to the rejection of these claims.

Therefore, it is respectfully submitted for the reasons set forth hereinabove, the rejection of Claims 10, 30, and 50 under 35 USC § 103(a) is improper as a matter of law.

Claims 11, 31, and 51

Dependent Claims 11, 31, and 51 recite the features of providing a masquerade function whereby one user can masquerade as a different user. By principle of dependency, Claims 11, 31, and 51 also recite each and every reference of the respective independent claims from which they depend. Appellants have carefully reviewed the entire disclosure of Raveis as well as Watanabe and Ouchi, and is unable to find any teachings whatsoever regarding the use of a masquerade function. Also, the Examiner failed to specify where this feature occurs in the Raveis prior art. One must wonder what prior art motivated the Examiner with respect to the masquerade function other than reading the Appellants' disclosure. For these reasons, the rejection of Claims 11, 31, and 51 under 35 USC § 103(a) is improper as a matter of law.

Claims 12, 32, and 52

The Examiner cites ¶ 0003 of Raveis as teaching the audit function that is added by these dependent claims. As this honorable Board can clearly verify ¶ 0003 of Raveis is a four line description of the field of the invention. This rejection is not well taken. In the first place, the words "audit trail" are not found in the entire disclosure of Raveis, Ouchi, or Watanabe. Secondly, these dependent claims incorporate the structural features of the respective independent claims from which they depend. Accordingly, by virtue of their dependency, each contains all the features of the respective independent claim. It is therefore respectfully submitted that the rejection of Claims 12, 32, and 52 under 35 USC § 103(a) is improper as a matter of law for the reasons set forth hereinabove.

Claims 13, 33, and 53

Since Raveis discloses in ¶ 0073 that "agent", "real estate agent", "sales agent" and "real estate broker" are used interchangeably throughout, it is not clear whether he teaches that the system is capable for administration by a real estate broker, since based on the disclosure it could mean that the system is capable for being administered by an "agent", "real estate agent" or "sales agent". Such teaching is contrary to Appellants' teachings since the limitations of these claims require only a real estate broker to be capable of administering the inventive method. Further, the terms "real estate broker" are not found in the entire disclosure of Ouchi or Watanabe. For these reasons as well as by virtue of the principle of dependency, the rejection of Claims 3, 13, and 53 is improper as a matter of law.

Claims 14, 34, and 54

As set forth in the previous argument with regard to dependent Claims 13, 33, and 53 in the preferred embodiment, a real estate broker is taught to be the administrator. It is the real estate broker who provides a list of third party companies to associate with the real estate record pursuant to dependent Claims 14, 34, and 54. Again, this is contrary to the teachings of Raveis who teaches "agents", "real estate agents", or "sales agent" to administrate the inventive method. Once again, Ouchi or Watanabe are totally silent with regard to such disclosure.

Accordingly, for the above reasons and by virtue of the principle of dependency, the rejection of dependent Claims 14, 34, and 54 under 35 USC § 103(a) is improper as a matter of law.

Claims 15, 35, and 55

Based on the teachings of Raveis, the controlling of the scheduling as for a template is an agent. According to dependent Claims 15, 35, and 55 it is the responsibility of a real estate

broker in Appellants' invention and therefore this is contrary to the teachings of Raveis as set forth under the previous two subtitles. No disclosure can be found in Watanabe or Ouchi relative to this issue. Therefore, for the reasons set forth above and in view of the principle of dependency, the rejections of dependent Claims 15, 35, and 55 under 35 USC § 103(a) is improper as a matter of law.

Claims 16, 36, and 56

Although Raveis teaches that the translation tracking process includes developing schedules to define a time table, track completed items and include related information, such teachings does not add sufficient teachings to overcome the fact that the elements of the independent claims and intervening claims that dependent Claims 16, 36, and 56 depend from are taught by Raveis in combination with Watanabe or Ouchi. For example, the combination of the prior art teachings still fails to teach creating a real estate record, assigning a unique record identifier to the real estate record, receiving information from a fax source without the use of a scanner, prompting the sender to key in the document routing number to initiate the faxing of the documents and associating and storing the received information in association with said real estate record. It is therefore respectfully submitted that the rejection of dependent Claims 16, 36, and 56 under 35 USC § 103(a) is improper as a matter of law.

Claims 17, 37, and 57

Each of dependent Claims 17, 37, and 57 depend directly or indirectly on independent Claims 1, 21, or 41. Accordingly, the additional structural features recited in these dependent claims must be read in conjunction with the structural features of the claims from which Claims 17, 37, and 57 depend. This rejection is not well taken in that the wish list set forth in ¶ 21 of Raveis contains not a single word regarding enablement of any of the structural features of these

claims. The disclosure of Watanabe or Ouchi lend no further clues regarding such wish list of rights. In view thereof, Raveis, Watanabe, or Ouchi either singularly or in combination fall to teach all of these features of Claims 17, 37, and 57. Accordingly, Claims 17, 37, and 57 set forth patentably distinguishable features over the cited documents. For all the above reasons, the rejection of Claims 17, 37, and 57 is improper as a matter of law.

Claims 18, 38, and 58

Raveis in ¶ 0034 teaches an automated system of notification to the customer, move consultant, sales agent, and transaction coordinator. Such notification is extremely limited. For example, there is no such provision for real estate brokers. Appellants' invention according to Claims 18, 38, and 58 add the feature of generating email communications to one or more users. The invention as set forth teaches an unlimited number of users defined as in Figure 3A. Accordingly, the teaching of a very limited number of users is contrary to the teachings of Appellants' invention. Further, these claims depend directly from each of their respective independent claims, and by virtue of dependency, contain all of the structural features of each of the respective independent claims. For all of the above reasons, Claims 18, 38, and 58 is submitted to be patentably distinguishable over the cited prior art. Accordingly, the rejection of Claims 18, 38, and 58 under 35 USC § 103(a) is improper as a matter of law.

Claims 19, 39, and 59

Raveis is completely devoid of any teachings whatsoever regarding the use of email as an advertising tool in association with the different phases of real estate transfers. Here, once again, the Examiner is using hindsight reconstruction to reject these dependent claims and completely fails to follow the requirement under MPEP §706.02(J). But for Appellants disclosure and teachings, the prior art is completely devoid of any teachings or disclosure which suggest the use

of email communication of the inventive method to advertise information from the real estate record. For all of the above reasons, and by virtue of the principle of dependency, it is respectfully submitted that the rejection of Claims 19, 39, and 59 is improper as a matter of law.

Claims 20, 40, and 60

Raveis, in ¶ 0024 teaches the occurrence of progress reports to provide sellers with updates on marketing efforts to date for each customer record (customer record is not defined in Raveis) reflecting the actual completion dates versus estimated completion dates of specific events. Appellants' dependent Claims 20, 40, and 60 claim the additional feature of generating reports from the real estate record. Again, the Examiner has taken the liberty of equating Raveis customer records with Appellants' real estate record in spite of the fact that Raveis has nowhere in the disclosure defined what a customer record is. Neither Ouchi nor Watanabe add any clarification to such rejection since the word "report" is not found in their respective disclosure. Once again, the Examiner is using hindsight reconstruction in an attempt to obviate Appellants' invention after having the benefit of reading Appellants' application. It is therefore respectfully submitted that the rejection of Claims 20, 40, and 60 under 35 USC § 103(a) is improper as a matter of law.
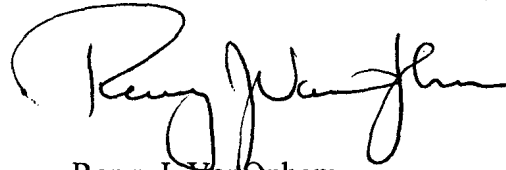
Conclusion

For the reasons stated above, Appellants respectfully submit that all of the rejections under 35 USC §103(a) standing in this application are improper as a matter of law in that the prior art references, singularly or in combination fail to teach the invention disclosed in this application and set forth in the claims, as pending herein. The Examiner has failed to establish a prima facie case of obviousness under 35 USC § 103(a) with respect to Claims 1-6, 8-26, 28-46,

and 48-60 over the cited prior art. Therefore, Appellants submit that all pending Claims 1-6, 8-

26, 28-46, and 48-60 are in condition for allowance and based on the above argument, reversal of

all of the rejections under 35 USC § 103(a) is respectfully requested.

Respectfully submitted,
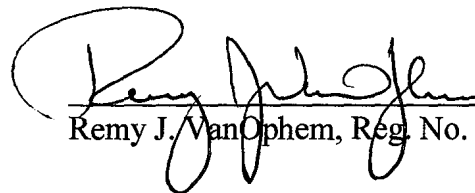
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Certificate under 37 CFR §1.8(a)

I hereby certify that this Appeal Brief is being electronically filed in the U.S. Patent
Office on: March 12, 2012.

Date: March 12, 2012

Remy J. VanOphem, Reg. No. 27053

VIII. **Claim Appendix**

1.   A method for automating phases of real estate transfers, said method being centralized on at least one server and carried out over a distributed computer network to a plurality of client computers, said method comprising the steps of:

creating a real estate record on said at least one server;

assigning a document routing number in the form of a unique identification number to said real estate record;

receiving information from any fax source capable of contacting said at least one server irrespective of a fax number of said fax source;

voice prompting a sender of said information to input said document routing number of said real estate record into said fax source;

associating said information to said real estate record using said document routing number; and

storing said information on said at least one server in association with said real estate record.

2.   The method as claimed in claim 1, wherein said receiving step includes receiving at least some portion of a property listing from a multiple listing service.

3.   The method as claimed in claim 1, further comprising the step of transmitting at least a portion of said real estate record to a multiple listing service.

4.   The method as claimed in claim 1, further comprising:

converting said information into a digital document to be associated and stored in accord with said associating and storing steps.

5.   The method as claimed in claim 4, wherein said associating step comprises:

determining whether said document routing number matches any of a number of a plurality of real estate records; and

discarding said digital document if said determining step is negative.

6.   The method as claimed in claim 5, wherein said storing step comprises saving said digital document on said at least one server in accord with a matching real estate record if said determining step is positive.

8.   The method as claimed in claim 1, wherein said receiving step includes a listing agent reviewing said information and granting view rights to authenticated users, such that said users can access and view a digital representation of said information.

9.   The method as claimed in claim 8, wherein said receiving step further includes said listing agent marking said information as secured or unsecured.

10.   The method as claimed in claim 1, further comprising the step of providing security clearance and access over said distributed computer network to at least some portions of said real estate record to a plurality of different users depending upon an assigned role of a user among said plurality of different users, said plurality of different users including buyers, sellers, brokers, managers, agents, financial entities, other third parties, or the like.

11.   The method as claimed in claim 1, further comprising the step of providing a masquerade function whereby one of said plurality of different users can masquerade as another of said plurality of different users.

12.   The method as claimed in claim 1, further comprising the step of tracking activity on said at least one server so as to provide an audit trail of said activity corresponding to said real estate record such as date of access, user identification, and the like.

13.   The method as claimed in claim 1, wherein said method is administered by a real estate broker.

14.   The method as claimed in claim 13, further comprising the step of said real estate broker controlling at least a portion of said information, said at least a portion of information including a list of third party companies with whom said real estate record is associated, such that a listing agent must use only third party companies from said list to conduct said real estate transfer.

15.   The method as claimed in claim 13, further comprising the step of said real estate broker controlling at least a portion of said information, said at least a portion of said information including a scheduling master template.

16.   The method as claimed in claim 15, further comprising the step of automatically generating a schedule for said real estate record from said scheduling master template.

17.   The method as claimed in claim 16, wherein said generating step includes said schedule being automatically populated with a plurality of tasks and associated dates.

18.   The method as claimed in claim 1, further comprising the step of automatically generating email communications to one or more of a plurality of users based on the happening of an event.

19.   The method as claimed in claim 1, further comprising the step of automatically generating an email communication containing advertising information from said real estate record.

20.   The method as claimed in claim 1, further comprising the step of generating reports from said real estate record.

21.   A system for automating phases of real estate transfers, said system comprising:

at least one server in a centralized location;

a distributed computer network in communication with said at least one server;

a plurality of client computers in communication with said distributed computer network;

means for creating a real estate record on said at least one server;

means for assigning a document routing number in the form of a unique identification number to said real estate record;

means for receiving information from any fax source capable of contacting said at least one server irrespective of a fax number of said fax source;

means for voice prompting a sender of said information to input said document routing number of said real estate record into said fax source;

means for associating said information to said real estate record using said document routing number associated with said real estate record; and

means for storing said information on said at least one server in association with said real estate record.

22.   The system as claimed in claim 21, wherein said means for receiving includes means for receiving at least some portion of a property listing from a multiple listing service.

23.   The system as claimed in claim 21, further comprising means for transmitting at least a portion of said real estate record to a multiple listing service.

24.   The system as claimed in claim 21, further comprising:

means for converting said information into a digital document to be associated and stored in accord with said means for associating and said means for storing.

25.   The system as claimed in claim 24, wherein said means for associating comprises:

means for determining whether said document routing number matches any of a number of a plurality of real estate records; and

means for discarding said digital document if said means for determining is negative.

26.   The system as claimed in claim 25, wherein said means for storing comprises means for saving said digital document on said at least one server in accord with a matching real estate record if said means for determining is positive.

28.   The system as claimed in claim 21, wherein said means for receiving includes a listing agent reviewing said information and granting view rights to authenticated users, such that said users can access and view a digital representation of said information.

29.   The system as claimed in claim 28, wherein said means for receiving further includes said listing agent marking said information as secured or unsecured.

30.   The system as claimed in claim 21, further comprising means for providing security clearance and access over said distributed computer network to at least some portions of said real estate record to a plurality of different users depending upon an assigned role of a user among said plurality of different users, said plurality of different users including buyers, sellers, brokers, managers, agents, financial entities, other third parties, or the like.

31.   The system as claimed in claim 21, further comprising means for providing a masquerade function whereby one of said plurality of different users can masquerade as another of said plurality of different users.

32.   The system as claimed in claim 21, further comprising means for tracking activity on said at least one server so as to provide an audit trail of said activity corresponding to said real estate record such as date of access, user identification, and the like.

33.   The system as claimed in claim 21, wherein said system is administered by a real estate broker.

34.   The system as claimed in claim 33, further comprising means for controlling at least a portion of said information by said real estate broker, said at least a portion of information including a list of third party companies with whom said real estate record is associated, such that a listing agent must use only third party companies from said list to conduct said real estate transfer.

35.   The system as claimed in claim 33, further comprising means for controlling at least a portion of said information by said real estate broker, said at least a portion of said information including a scheduling master template.

36.   The system as claimed in claim 35, further comprising means for automatically generating a schedule for said real estate record from said scheduling master template.

37.   The system as claimed in claim 36, wherein said means for generating includes said schedule being automatically populated with a plurality of tasks and associated dates.

38.   The system as claimed in claim 21, further comprising means for automatically generating email communications to one or more of a plurality of users based on the happening of an event.

39.   The system as claimed in claim 21, further comprising means for automatically generating an email communication containing advertising information from said real estate record.

40.   The system as claimed in claim 21, further comprising means for generating reports from said real estate record.

41.   A computer readable medium on which is stored computer program code, said computer program code implementing a method for automating real estate transfers, said method being centralized on at least one server and carried out over a distributed computer network to a plurality of client computers, said method comprising the steps of:

creating a real estate record on said at least one server;

assigning a document routing number in the form of a unique identification number to said real estate record;

receiving information from any fax source capable of contacting said at least one server irrespective of a fax number of said fax source;

voice prompting a sender of said information to input said document routing number of said real estate record into said fax source;

associating said information to said real estate record using said document routing number associated with said real estate record; and

storing said information on said at least one server in association with said real estate record.

42.   The computer readable medium as claimed in claim 41, wherein said receiving step includes receiving at least some portion of a property listing from a multiple listing service.

43.   The computer readable medium as claimed in claim 41, further comprising the step of transmitting at least a portion of said real estate record to a multiple listing service.

44.   The computer readable medium as claimed in claim 41, further comprising:

converting said information into a digital document to be associated and stored in accord with said associating and storing steps.

45.   The computer readable medium as claimed in claim 44, wherein said associating step comprises:

determining whether said document routing number matches any of a number of a plurality of real estate records; and

discarding said digital document if said determining step is negative.

46.   The computer readable medium as claimed in claim 45, wherein said storing step comprises saving said digital document on said at least one server in accord with a matching real estate record if said determining step is positive.

48.   The computer readable medium as claimed in claim 41, wherein said receiving step includes a listing agent reviewing said information and granting view rights to authenticated users, such that said users can access and view a digital representation of said information.

49.   The computer readable medium as claimed in claim 48, wherein said receiving step further includes said listing agent marking said information as secured or unsecured.

50.   The computer readable medium as claimed in claim 41, further comprising the step of providing security clearance and access over said distributed computer network to at least some portions of said real estate record to a plurality of different users depending upon an assigned role of a user among said plurality of different users, said plurality of different users including buyers, sellers, brokers, managers, agents, financial entities, other third parties, or the like.

51.   The computer readable medium as claimed in claim 41, further comprising the step of providing a masquerade function whereby one of said plurality of different users can masquerade as another of said plurality of different users.

52.   The computer readable medium as claimed in claim 41, further comprising the step of tracking activity on said at least one server so as to provide an audit trail of said activity corresponding to said real estate record such as date of access, user identification, and the like.

53.   The computer readable medium as claimed in claim 41, wherein said computer readable medium is administered by a real estate broker.

54.   The computer readable medium as claimed in claim 53, further comprising the step of said real estate broker controlling at least a portion of said information, said at least a portion of information including a list of third party companies with whom said real estate record is associated, such that a listing agent must use only third party companies from said list to conduct said real estate transfer.

55.   The computer readable medium as claimed in claim 53, further comprising the step of said real estate broker controlling at least a portion of said information, said at least a portion of said information including a scheduling master template.

56.   The computer readable medium as claimed in claim 55, further comprising the step of automatically generating a schedule for said real estate record from said scheduling master template.

57.   The computer readable medium as claimed in claim 56, wherein said generating step includes said schedule being automatically populated with a plurality of tasks and associated dates.

58.   The computer readable medium as claimed in claim 41, further comprising the step of automatically generating email communications to one or more of a plurality of users based on the happening of an event.

59.   The computer readable medium as claimed in claim 41, further comprising the step of automatically generating an email communication containing advertising information from said real estate record.

60.   The computer readable medium as claimed in claim 41, further comprising the step of generating reports from said real estate record.

IX.   Evidence Appendix

None.

X.   Related Proceedings Appendix

See the attached Decision on Appeal dated May 30, 2001.

UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/698,648	10/31/2003	Steven Louis Eaton	LDC100A US	3752

21133   7590   02/19/2010
VAN OPHEM & VANOPHEM, PC
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EXAMINER
VIG, NARESH

ART UNIT	PAPER NUMBER
3629	

MAIL DATE	DELIVERY MODE
02/19/2010	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

_____

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

_____

Ex parte STEVEN LOUIS EATON, WILLIAM EDWARD SHANNON II,
KAREN LINDA KARAM, and DAVID OWEN DEREES

_____

Appeal 2009-005792
Application 10/698,648
Technology Center 3600

_____

Decided: February 19, 2010

_____

Before MURRIEL E. CRAWFORD, JOESPH A. FISCHETTI, and
KEVIN F. TURNER, *Administrative Patent Judges.*

TURNER, *Administrative Patent Judge.*

DECISION ON APPEAL

STATEMENT OF CASE

Appellants seek our review under 35 U.S.C. § 134 of the final

rejections of claims 1-6, 8-26, 28-46, and 48-60. We have jurisdiction under

35 U.S.C. § 6(b).

SUMMARY OF THE DECISION

We AFFIRM.[1]

THE INVENTION

Appellants' claimed invention relates to a method, system, and

computer readable medium for automating phases of real estate transfers.

The process creates a real estate record on a server, assigns a record

identifier to that record, and then receives information through a fax source.

The information received is then associated to the real estate record using

the assigned record identifier and then stored on the server. (Spec. p. 2, ¶

[0009]).

Independent claim 1, which is deemed to be representative, reads as

follows:

> 1. A method for automating phases of real estate
> transfers, said method being centralized on at least one
> server and carried out over a distributed computer
> network to a plurality of client computers, said method
> comprising the steps of:
>   creating a real estate record on said at least one
> server;

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[1] Our decision will make reference to the Appellants' Appeal Brief ("Br."
filed Mar. 19, 2008) and the Examiner's Answer ("Ans.," mailed May 21,
2008).

assigning a record identifier to the real estate record;

receiving information from any fax source capable of contacting said at least one server irrespective of a fax number of said fax source;

prompting a sender of said information to input said record identifier into said fax source;

associating said information to said real estate record using the record identifier; and

storing said information on said at least one server in association with said real estate record.

THE REJECTION

The prior art relied upon by the Examiner in rejecting the claims on appeal is:

Raveis, Jr.	US 2002/0049624 A1	Apr. 25, 2002
Watanabe[23]	JP 2001-274946	Oct. 5, 2001

The Examiner rejected claims 1-6, 8-26, 28-46, and 48-60 under 35 U.S.C. § 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention proper as a matter law. Additionally, the Examiner rejected claims 1-6, 8-26, 28-46, and 48-60 under 35 U.S.C. § 112, second paragraph, as being vague and indefinite proper as a matter of law. Lastly,

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[2] Japanese Patent Document Number 2001-274946, published Oct. 5, 2001. This decision cites to the English translation submitted Dec. 30, 2005 (hereinafter "Watanabe").

[3] The Examiner refers to Watanabe in the evidence relied upon section of the Examiner's Answer as JP20021274946 A. (Ans. 3). We believe this to be a typographical error and instead find that the reference should properly be referred to as JP 2001-274946.

the Examiner rejected claims 1-6, 8-26, 28-46, and 48-60 under 35 U.S.C.

§ 103(a) as being unpatentable over Raveis, Jr. and Watanabe.

Rather than repeat the arguments of Appellants or the Examiner, we make reference to the Brief and the Answer for their respective details. Only those arguments actually made by Appellants have been considered in this decision. Arguments that Appellants did not make in the Brief have not been considered and are deemed to be waived. *See* 37 C.F.R. § 41.37(c)(1)(vii).a

ISSUES

1. Have Appellants shown the Examiner erred in rejecting claims 1-6, 8-26, 28-46, and 48-60 under 35 U.S.C. § 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention proper as a matter law?

2. Have Appellants shown the Examiner erred in rejecting claims 1-6, 8-26, 28-46, and 48-60 under 35 U.S.C. § 112, second paragraph, as being vague and indefinite proper as a matter of law?

3. Have Appellants shown the Examiner erred in rejecting claims 1-6, 8-26, 28-46, and 48-60 under 35 U.S.C. § 103(a) as being unpatentable over Raveis, Jr. and Watanabe?

FINDINGS OF FACT

The record supports the following findings of fact (FF) by at least a preponderance of the evidence. *In re Caveney*, 761 F.2d 671, 674 (Fed. Cir.

1985) (explaining the general evidentiary standard for proceedings before the Office).

Claim Interpretation

1. In describing a "record identifier," Appellants' Specification discloses that "[e]ach property listing is assigned a unique record identifier or identification number." (p. 31).

2. With regard to "prompting a sender to input said record locator into said fax source," Appellants' Specification discloses:

> After dialing the central fax number, but prior to sending the fax, the person 70 is voice prompted to enter a mailbox number (aka the Document Routing Number which was discussed previously above) by a procedure or fax manager software 78 that is loaded to one or more of the servers of the system of the present invention. This identifying DRN is the same number that uniquely identifies the property listing within the databases 36 of the system. The person 70 then enters the DRN number, such as by keypad entry that generates tones such as with a touch-tone dialing system. Then the person 70 sends the fax as consistent with current knowledge in the art of fax transmission.

(Spec. p. 48).

3. Appellants' Specification describes that each property listing is assigned a unique record identifier or identification number and a listing must exist prior to adding information to the listing. (Spec. p. 31).

4. Appellants' Specification discloses that ". . . usage is tracked using an audit trail function." (Spec. p. 4).

Raveis, Jr.

5. Raveis, Jr. is directed to a method and system for generating a customer record for the different stages involved in a real estate transaction. (Abs.).

6. Raveis, Jr. describes that its system includes a server which communicates with a distributed computer network which is capable of hosting multiple databases. (¶ [0056]).

7. Raveis, Jr. describes that the customer record stores data fields relating to the tasks associated with the purchase or sale of a property from contract to close. (¶¶ [0017], [0018]).

8. Raveis, Jr. describes that its databases are used in a relational arrangement. (¶ [0057]).

9. Raveis, Jr. describes submitting the property listing to a multiple listing service. (¶ [0099]).

10. Raveis, Jr. discloses that "'agent', 'real estate agent', 'sales agent' and 'real estate broker' are used interchangeably throughout the subject disclosure." (¶ [0073]).

11. Raveis, Jr. describes that the automated system can provide notifications over email to customers, move consultants, sales agents, and transaction coordinator. (¶¶ [0034], [0035]).

12. Raveis, Jr. describes that its real estate management software program generates and delivers a list of available products and services to customers based on the geographic location of a property. (¶ [0037]).

13. Raveis, Jr. describes creating an accessible history or "activity file" that documents and records all the member's real estate transactions.

(¶ [0120]).

Watanabe

14. Watanabe is directed to an electronic filing system which is designed to transmit, via FAX, documents to a document storage area. (¶ [0009]).

15. Watanabe describes that a special cover sheet includes a receiver ID for identifying the appropriate document storage area. (¶ [0009]).

16. Watanabe describes coding a document into a TIFF format. (¶ [0014]).

17. Watanabe discloses ". . . a document storage mechanism designed to specify, based on the receiver ID information, the document storage area for the corresponding receiver and to store the corresponding communications document into said document storage area." (¶ [0009]).

PRINCIPLES OF LAW

Enablement

An analysis of whether the claims under appeal are supported by an enabling disclosure requires a determination of whether that disclosure contained sufficient information regarding the subject matter of the appealed claims as to enable one skilled in the pertinent art to make and use the claimed invention. The test for enablement is whether one skilled in the art could make and use the claimed invention from the disclosure coupled with information known in the art without undue experimentation. *See United States v. Telectronics, Inc.*, 857 F.2d 778, 785 (Fed. Cir. 1988); *In re*

Stephens, 529 F.2d 1343, 1345 (CCPA 1976). Some enablement experimentation, even a considerable amount, is not "undue" if, e.g., it is merely routine, or if the specification provides a reasonable amount of guidance as to the direction in which the experimentation should proceed. *In re Wands*, 858 F.2d 731, 737 (Fed. Cir. 1988). The "undue experimentation" component examines (1) the quantity of experimentation; (2) the amount of direction or guidance present; (3) the presence or absence of working examples; (4) the nature of the invention; (5) the state of the prior art; (6) the relative skill of those in the art; (7) the predictability or unpredictability of the art; and (8) the breadth of the claims (hereinafter, "the Wands factors."). *Id.* at 737. The Examiner's analysis of the "undue experimentation" component must consider all the evidence related to each of the Wands factors, and any conclusion of non-enablement must be based on the evidence as a whole. *Id.* at 737, 740; *see also Manual of Patent Examining Procedure* (MPEP) § 2164.01(a).

Definiteness

The test for compliance is whether the claims "set out and circumscribe a particular area with a reasonable degree of precision and particularity" when read in light of the "application disclosure as they would be interpreted by one of ordinary skill in the [...] art." *In re Moore*, 439 F.2d 1232, 1235 (CCPA 1971).

Obviousness

"Section 103 forbids issuance of a patent when 'the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains.'" *KSR Int'l Co. v. Teleflex Inc.*, 550 U.S. 398, 406 (2007). The question of obviousness is resolved on the basis of underlying factual determinations including (1) the scope and content of the prior art, (2) any differences between the claimed subject matter and the prior art, (3) the level of skill in the art, and (4) where in evidence, so-called secondary considerations. *Graham v. John Deere Co.*, 383 U.S. 1, 17-18 (1966). *See also KSR*, 550 U.S. at 407 ("While the sequence of these questions might be reordered in any particular case, the [*Graham*] factors continue to define the inquiry that controls.").

In *KSR*, the Supreme Court held that "[t]he combination of familiar elements according to known methods is likely to be obvious when it does no more than yield predictable results." *Id.* at 416. The Court explained:

> When a work is available in one field of endeavor, design incentives and other market forces can prompt variations of it, either in the same field or a different one. If a person of ordinary skill can implement a predictable variation, § 103 likely bars its patentability. For the same reason, if a technique has been used to improve one device, and a person of ordinary skill in the art would recognize that it would improve similar devices in the same way, using the technique is obvious unless its actual application is beyond his or her skill.

Id. at 417.

The operative question in this "functional approach" is thus "whether the improvement is more than the predictable use of prior art elements according to their established functions." *Id.* In rejecting claims under 35 U.S.C. § 103(a), the examiner bears the initial burden of establishing a prima facie case of obviousness. *In re Oetiker,* 977 F.2d 1443, 1445 (Fed. Cir. 1992). *See also In re Piasecki,* 745 F.2d 1468, 1472 (Fed. Cir. 1984). Only if this initial burden is met does the burden of coming forward with evidence or argument shift to the Appellant. *Oetiker,* 977 F.2d at 1445. *See also Piasecki,* 745 F.2d at 1472. Obviousness is then determined on the basis of the evidence as a whole and the relative persuasiveness of the arguments. *See Oetiker,* 977 F.2d at 1445; *see also In re Piasecki,* 745 F.2d at 1472.

ANALYSIS

ISSUE 1

Claims 1-6, 8-26, 28-46, and 48-60 rejected under 35 U.S.C. § 112, first paragraph, as not enabled.

The Examiner rejected claims 1-6, 8-26, 28-46, and 48-60 under 35 U.S.C. § 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention proper as a matter law. (Ans. 4).

The Examiner held that it is not clear how a "[t]hermal [f]ax [m]achine which is capable of contacting at least one server . . . is sent a prompt for the sender to input said record identifier because the telephone line is busy with the communication between the thermal fax machine and

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the server." (Ans. 4). Additionally, the Examiner held that it is not clear how ". . . the sender know[s] the record identifier associated with the real estate record." (Ans. 4). Lastly, with regard to dependent claims 3, 23, and 43, the Examiner held that it is not clear how ". . . a portion of [the] fax is sent to MLS when there is not conversion like for example OCR is done on the received fax to extract the data which is [sic] sent to MLS." (Ans. 4).

The Examiner concluded that undue experimentation would be involved in prompting the sender to input said record identifier into said fax source, the sender knowing the record identifier associated with the real estate record, and sending a portion a property listing to a MLS. (Ans. 3-4). However, the Examiner has not discussed the Wands factors with regard to any of limitations identified, *supra*. For example, the Examiner has not discussed the level of skill in the art and the direction provided in the Specification to perform these steps, and thus has failed to establish a prima facie case of nonenablement.

With regard to prompting the sender to input said record identifier into a fax source, as generally recited in claims 1, 21, and 41, we note that the Specification describes that after dialing the fax number, but prior to sending the fax, the person is voice prompted to enter a mailbox number which corresponds to the record identifier as claimed by Appellants. (FF 2). Following the prompt, the Specification goes on to describe that the person sends the fax consistent with current knowledge in the art of fax transmission. (FF 2). As such, we find that the Appellants have explained with sufficient guidance and direction how the sender would be prompted to input said record identifier into a fax source without undue experimentation.

With regard to the sender knowing the record identifier associated with the real estate record, as generally recited in claims 1, 21, and 41, we note that prior to the step of prompting a user to input a record identifier into the fax source, a real estate record is created and a record identifier is then assigned to the real estate record. (Br. 51, 54, 57). Further, Appellants' Specification describes that each property listing is assigned a unique record identifier and a listing must exist prior to adding information to the listing. (FF 3). Thus, we find that Appellants have explained with sufficient guidance and direction how a sender would know the record identifier associated with the real estate record without undue experimentation.

Lastly, with regard to sending a portion a property listing to a MLS, as generally recited in claims 3, 23, and 43, we find that contrary to the Examiner's argument that ". . . [A]ppellant[s] ha[ve] not disclosed how a portion of fax is sent to MLS when there is not conversion like for example OCR is done on the received fax to extract the data which is [sic] sent to MLS" (Ans. 4), Appellants' do not claim transmitting at least a portion of a fax here. Rather, Appellants claim "transmitting at least a portion of said real estate record to a multiple listing service," which would not necessarily require any conversion at all since the real estate record is already on the server. (Br. 51, 54, 57). Thus, we find that Appellants have explained with sufficient guidance and direction the step of sending a portion a property listing to a MLS without undue experimentation.

Therefore, we will not sustain the Examiner's rejection of claims 1-6, 8-26, 28-46, and 48-60 under 35 U.S.C. § 112, first paragraph as failing to comply with the enablement requirement.

ISSUE 2

Claims 1-6, 8-26, 28-46, and 48-60 rejected under 35 U.S.C. § 112,

second paragraph, as being vague and indefinite.

The Examiner argues that claims 1-6, 8-26, 28-46, and 48-60 are vague and indefinite because, "[A]ppellant[s] ha[ve] not positively claimed how a sender of a fax to the server knows the identifier associated with the real estate record to be able to respond to the prompt by the server," "the association of the information received is associated with the proper real estate," and "[A]ppellant[s] ha[ve] not positively claimed how the system approves the information received." (Ans. 4). Further, the Examiner argues that claims 1-6, 8-26, 28-46, and 48-60 are vague and indefinite because, "[A]ppellant[s] ha[ve] not positively claimed how the claimed invention automatically makes a decision on what access rights should assigned to the received information." (Ans. 4). We cannot agree.

We find that the Examiner's concerns go to the construction to be given the claims rather than indefiniteness. As discussed *supra*, with regard to the sender of a fax knowing the identifier associated with the real estate record, the claims may encompass the "prompting" step (see claim 1) since the method step has properly set forth steps which create a real estate record and then subsequently assign a record identifier to that real estate record, prior to prompting a sender to input a record identifier. Thus, the Examiner's concerns are a matter of claim breadth, not indefiniteness. "Breadth is not indefiniteness." *In re Gardner*, 427 F.2d 786, 788 (1970).

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Similarly, the association of the information received, how the system approves the information received, and how the claimed invention automatically makes a decision on what access rights should assigned to the received information are a question of claim interpretation and not necessarily indefiniteness. *Cf. Intervet Am., Inc. v. Kee-Vet Labs.*, Inc., 887 F.2d 1050, 1053 (Fed. Cir. 1989) ("Ambiguity, undue breadth, vagueness, and triviality are matters which go to claim validity for failure to comply with 35 USC 112 ¶2, not to interpretation or construction.") In that regard, it appears that no attempt has been made to give the claims the broadest reasonable construction consistent with the specification as it would be interpreted by one of ordinary skill in the art. Unless that is first done, a prima facie case of indefiniteness can not be said to have been established. *Cf. In re Moore*, 439 F.2d 1232, 1235 (CCPA 1971) ("[T]he definiteness of the language employed must be analyzed-- not in a vacuum, but always in light of the teachings of the prior art and of the particular application disclosure as it would be interpreted by one possessing the ordinary level of skill in the pertinent art").

Accordingly, we will not sustain the Examiner's rejection of claims 1-6, 8-26, 28-46, and 48-60 under 35 U.S.C. § 112, second paragraph as vague and indefinite.

ISSUE 3

Claims 1-6, 8-26, 28-46, and 48-60 rejected under 35 U.S.C. § 103(a)

as being obvious over Raveis and Watanabe[4].

Appellants generally argue, ". . . there is no teaching or suggestion in Raveis, Jr. or Watanabe that their teachings may be combined so as to provide the present invention as recited in the claims and such motivation only comes from Appellants' disclosure." (Br. 34). To the extent Appellants seek an explicit suggestion or motivation in the reference itself, this is no longer the law in view of the Supreme Court's holding in *KSR Int'l Co. v. Teleflex Inc.*, 550 U.S. 398, 418 (2007). The Examiner has provided an articulated reasoning with rational underpinning for why a person with ordinary skill in the art would modify the real estate transaction system of Raveis, Jr. to incorporate the electronic facsimile-based filing system of Watanabe (FF 14). Specifically, the Examiner articulates a rationale based on a party being able to electronically file documents in a transaction. (Ans. 5). Thus, a person with ordinary skill in the art would know from Watanabe to apply this faxing technique to Raveis, Jr. since both system are able to transmit information to a server over a communications network. (FF 6, 14). Therefore, Appellants' arguments with regard to the combination of Raveis, Jr. and Watanabe are not persuasive as to error in the rejection.

Independent claims 1, 21, and 41

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[4] A statement which merely points out what a claim recites will not be considered an argument for separate patentability of the claim. *See*, 37 C.F.R. § 41.37(c)(vii).

Appellants argue that the combination of Raveis, Jr. and Watanabe fails to disclose, teach, or suggest ". . . record identifiers, assigning a record identifier to a real estate record, prompting a sender of information to input the record identifier into a fax source, and associating the real estate record to the received information using the record identifier." (Br. 36). We are not persuaded by Appellants' arguments and will address each limitation individually, *infra*.

With regard to a record identifier, the Examiner cited to Raveis, Jr. to teach this limitation, and we agree. Raveis, Jr. discloses generating a customer record which comprises data fields relating to the tasks associated with the purchase or sale of a property. (FF 5, 7). This customer record would necessarily be identifiable and searchable based on the data fields given the relational arrangement of the database disclosed in Raveis, Jr. (FF 5, 8). Thus, we find any field in the customer record to be equivalent to the record identifier as claimed by Appellants.

With regard to assigning a record identifier to a real estate record, the Examiner cited to the combination of Raveis, Jr. and Watanabe to address this limitation, and we agree. As discussed *supra*, we find that Raveis, Jr. teaches a record identifier which may be any field in the customer's real estate record. Further, Appellants' Specification describes that each property listing is assigned a unique record identifier or identification number. (FF 1). Thus, Appellants' independent claims 1, 21, and 41 do not require each real estate record to be assigned an identification number, but merely a unique record identifier which we interpret to be a field in the customer's record, such as an address, which is unique. (FF 7, 8). Thus, we

find the combination of Raveis, Jr. and Watanabe makes obvious the step of assigning a record identifier to a real estate record, as generally recited by Appellants in claims 1, 21, and 41.

With regard to prompting a sender of information to input the record identifier into a fax source, the Examiner cited to the combination of Raveis, Jr. and Watanabe to address this limitation, and we agree. Specifically, the Examiner cited to Watanabe which teaches the ability to fax a document into a server, and through the use of a receiver ID, the document is directed to the appropriate storage location. (FF 14, 15). We interpret this receiver ID to be equivalent to Appellants' record identifier since both the receiver ID and the record identifier are used to associate the faxed document with the appropriate record or storage location. Additionally, with regard to the prompting step, we find that a user is always prompted to initiate a fax transmission. Thus, when transmitting a fax, a user using the system taught by Watanabe would contemporaneously be transmitting the information and the record identifier. Notwithstanding, we note that with regard to Appellants' step of "receiving information from any fax source," performed prior to the "prompting step," we interpret this step to be performed by a user entering the phone number into the fax machine. Accordingly, we find the combination of Raveis, Jr. and Watanabe makes obvious the step of a sender of information to input the record identifier into a fax source, as generally recited by Appellants in claims 1, 21, and 41.

With regard to associating the real estate record to the received information using the record identifier, the Examiner cited to the combination of Raveis, Jr. and Watanabe to address this limitation, and we

agree. As discussed *supra*, we interpret the receiver ID taught by Watanabe to be equivalent to Appellants' record identifier since both the receiver ID and the record identifier are used to associate the faxed document with the appropriate record or storage location. (FF 14, 15). Additionally, we find that this receiver ID could be assigned as any field in the customer record disclosed in Raveis, Jr. in order to uniquely identify it. (FF 7, 8). Thus, commensurate with the scope of Appellants' independent claims 1, 21, and 41, the receiver ID taught by Watanabe would associate and store the information faxed by a user to the appropriate customer real estate record disclosed in Raveis, Jr. Therefore, we find the combination of Raveis, Jr. and Watanabe makes obvious the step of associating the real estate record to the received information using the record identifier, as generally recited by Appellants in claims 1, 21, and 41.

Accordingly, Appellants' arguments that the combination of Raveis, Jr. and Watanabe fails to disclose, teach, or suggest ". . . record identifiers, assigning a record identifier to a real estate record, prompting a sender of information to input the record identifier into a fax source, and associating the real estate record to the received information using the record identifier" are not persuasive as to error in the rejection.

Dependent claims 3, 23, and 43

Appellants argue that the combination of Raveis, Jr. and Watanabe fails to teach or suggest the step of "transmitting at least a portion of said real estate record to a multiple listing service," as recited in claims 3, 23 and 43. Further, Appellants argue their system uses an identifier to accomplish

this element and ". . . Raveis, Jr. is completely silent as to the definition of a property listing as well as to the meaning of a customer record." (Br. 41). We are not persuaded by Appellants' argument and agree with the Examiner's finding that Raveis, Jr. discloses submitting the property listing to a multiple listing service. (FF 9). The rejection of claims 3, 23, and 43 is in view of Raveis, Jr. and Watanabe, as discussed *supra*, the Examiner cited to the receiver ID taught by Watanabe which associates and stores the information transmitted by a user to the appropriate customer real estate record disclosed in Raveis, Jr. Thus, for these reasons and the reasons discussed *supra*, we find the combination of Raveis, Jr. and Watanabe makes obvious the step of "transmitting at least a portion of said real estate record to a multiple listing service." Therefore, Appellants' argument is not persuasive as to error in the rejection.

Dependent claims 4, 24, and 44

Appellants argue that the combination of Raveis, Jr. and Watanabe fails to teach or suggest the step of "converting said information into a digital document to be associated and stored in accord with said associating and storing steps." (Br. 42). We are not persuaded by Appellants' argument and find that Watanabe teaches coding a document into a TIFF format. (FF 16). Thus, Watanabe converts a faxed document into a digital document and then associates and stores, as discussed *supra*. Therefore, Appellants' argument is not persuasive as to error in the rejection.

Dependent claims 5, 25, and 45

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Appellants argue that the combination of Raveis, Jr. and Watanabe fails to teach or suggest the step of "determining whether said record identifier matches any of a number of a plurality of real estate records," as recited in claims 5, 25, and 45. Specifically, Appellants argue, "Watanabe teaches a 'receiver 10' but completely fails to identify 'receivers' nor does Watanabe define a receiver ID in any way, shape or form within the complete prior art reference." (Br. 42-43). We are not persuaded by Appellants' argument and find that the receiver ID taught by Watanabe could be assigned as any field in the customer record disclosed in Raveis, Jr. in order to uniquely identify it. (FF 7, 8). Thus, for these reasons and the reasons discussed *supra*, we find the combination of Raveis, Jr. and Watanabe makes obvious the step of "determining whether said record identifier matches any of a number of a plurality of real estate records." Therefore, Appellants' argument is not persuasive as to error in the rejection.

Dependent claims 6, 26, and 46

Appellants argue that the combination of Raveis, Jr. and Watanabe fails to teach or suggest the ". . . storing step comprises saving said digital document on said at least one server in accord with a matching real estate record if said determining step is positive," as recited in claims 6, 26, and 46. (Br. 43). We are not persuaded by Appellants' argument and find that the receiver ID taught by Watanabe could be assigned as any field in the customer record disclosed in Raveis, Jr. in order to uniquely identify it. (FF 7, 8). Additionally, the system taught by Watanabe stores a digital copy of the document faxed in a document storage area based on the receiver ID

information. (FF 17). Thus, for these reasons and the reasons discussed *supra*, we find the combination of Raveis, Jr. and Watanabe makes obvious the ". . . storing step comprises saving said digital document on said at least one server in accord with a matching real estate record if said determining step is positive." Therefore, Appellants' argument is not persuasive as to error in the rejection.

Dependent claims 10, 30, and 50

With regard to claims 10, 30, and 50, Appellants argue that the Examiner has improperly ". . . equat[ed] the 'customer record' to the 'identifier' taught by Appellants' invention." (Br. 44-45). We are not persuaded by Appellants' argument and find that the receiver ID taught by Watanabe could be assigned as any field in the customer record disclosed in Raveis, Jr. in order to uniquely identify it. (FF 7, 8). Thus, for these reasons and the reasons discussed *supra*, Appellants' argument is not persuasive as to error in the rejection.

Dependent claims 12, 32, and 52

Appellants argue that the combination of Raveis, Jr. and Watanabe fails to teach or suggest the step of ". . . tracking activity on said at least one server so as to provide an audit trail of said activity corresponding to said real estate record such as date of access, user identification, and the like," as recited in claims 12, 32, and 52. Specifically, Appellants argue that, ". . . the words 'audit trail' are not found in the entire disclosure of Raveis, Jr." (Br. 45-46). We are not persuaded by Appellants' argument and while we agree

that Raveis, Jr. may not disclose the words "audit trail" per se, Raveis, Jr. does indeed disclose a history or "activity file" that documents and records all the member's real estate transactions. (FF 13). Thus, similar to an audit trail which Appellants' Specification describes as a usage tracker (FF 4), the combination of Raveis, Jr. and Watanabe makes obvious the step of "... tracking activity on said at least one server so as to provide an audit trail of said activity corresponding to said real estate record such as date of access, user identification, and the like," Thus, for these reasons and the reasons discussed *supra*, Appellants' argument is not persuasive as to error in the rejection.

Dependent claims 13, 33, and 53

Appellants argue that the combination of Raveis, Jr. and Watanabe fails to teach or suggest that the "... method is administered by a real estate broker," as recited in claims 13, 33, and 53. Specifically, Appellants argue that "[s]ince Raveis, Jr. discloses in ¶ 0073 that 'agent', 'real estate agent', 'sales agent' and 'real estate broker' are used interchangeably throughout, it is not clear whether [Raveis, Jr.] teaches that the system is capable for administration by a real estate broker..." (Br. 46). We are not persuaded by Appellants' argument and find that although Raveis, Jr. may use the above terms interchangeably, Raveis, Jr. indeed suggests a "real estate broker." While Appellants' claims may recite that the method is administered by a real estate broker, it does not recite that it may not be performed by others nor have Appellants argued that the system is not being administered by one of these users which Raveis, Jr. uses interchangeably. (FF 10). Thus, for these reasons and the reasons discussed *supra*, we find

the combination of Raveis, Jr. and Watanabe makes obvious the step that the "... method is administered by a real estate broker." Therefore, Appellants' argument is not persuasive as to error in the rejection.

Dependent claims 14, 34, and 54

Appellants argue that the combination of Raveis, Jr. and Watanabe fails to teach or suggest that the "... the step of said real estate broker controlling at least a portion of said information, said at least a portion of information including a list of third party companies with whom said real estate record is associated, such that a listing agent must use only third party companies from said list to conduct said real estate transfer," as recited in claims 14, 34, and 54. (Br. 46). We are not persuaded by Appellants' argument and find as discussed *supra*, Raveis, Jr. teaches a "real estate broker." Appellants make no arguments regarding claims 14, 34, and 54 other than those asserted regarding claims 13, 33, and 53. Thus, for these reasons and the reasons discussed *supra*, we find the combination of Raveis, Jr. and Watanabe makes obvious the limitation recited in claims 14, 34, 54. Therefore, Appellants' argument is not persuasive as to error in the rejection.

Dependent claims 18, 38, and 58

Appellants argue that the combination of Raveis, Jr. and Watanabe fails to teach or suggest "... the step of automatically generating email communications to one or more of a plurality of users based on the happening of an event.," as recited in claims 18, 38, and 58. Specifically, Appellants argue, "Raveis, Jr. in ¶ 0034 teaches an automated system of

notification to the customer, move consultant, sales agent, and transaction coordinator. [However,] [s]uch notification is extremely limited." (Br. 48). We are not persuaded by Appellants' argument and find that the email notification provided by the automated system in Raveis, Jr. discloses the limitation as claimed by Appellants. (FF 11). While Appellants' may argue the email notifications disclosed by Raveis, Jr. are "extremely limited," Appellants claims, as recited, require nothing more. Thus, for these reasons and the reasons discussed *supra*, we find the combination of Raveis, Jr. and Watanabe makes obvious the limitation recited in claims 18, 38, and 58. Therefore, Appellants' argument is not persuasive as to error in the rejection.

Dependent claims 19, 39, and 59

Appellants argue that the combination of Raveis, Jr. and Watanabe fails to teach or suggest that the ". . . the step of automatically generating an email communication containing advertising information from said real estate record," as recited in claims 19, 39, and 59. (Br. 48-49). We are not persuaded by Appellants' argument and find that as discussed *supra*, Raveis, Jr. discloses communication by email. (FF 11). Additionally, Raveis, Jr. discloses generating and delivering lists of available products and services to customers based on the geographic location of a property (FF 12), which we interpret to be advertisements. Although, Raveis, Jr. may not explicitly disclose that these lists are delivered via email, given the fact that the system of Raveis, Jr. communicates with customers via email, it would have been obvious to deliver these advertisements by email. Thus, for these reasons and the reasons discussed *supra*, we find the combination of Raveis, Jr. and

Watanabe makes obvious the limitation recited in claims 18, 38, and 58.

Therefore, Appellants' argument is not persuasive as to error in the rejection.

Dependent claims 2, 8, 9, 11, 15-17, 20, 22, 28, 29, 31, 35-37, 40, 42, 48, 49, 51, 55-57, and 60

Appellants do not separately argue claims 2, 8, 9, 11, 15-17, 20, 22, 28, 29, 31, 35-37, 40, 42, 48, 49, 51, 55-57, and 60 which depend from claims 1, 21, and 41 respectively, and so have not sustained their burden of showing that the Examiner erred in rejecting claims 2, 8, 9, 11, 15-17, 20, 22, 28, 29, 31, 35-37, 40, 42, 48, 49, 51, 55-57, and 60 under 35 U.S.C. § 103(a) as being unpatentable over Raveis, Jr. and Watanabe for the same reasons we found as to claims 1, 21, and 41, *supra.*

CONCLUSIONS OF LAW

1. We conclude that Appellants have shown that the Examiner erred in rejecting claims 1-6, 8-26, 28-46, and 48-60 under 35 U.S.C. § 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention proper as a matter law.

2. We conclude that Appellants have shown that the Examiner erred in rejecting claims 1-6, 8-26, 28-46, and 48-60 under 35 U.S.C. § 112, second paragraph, as being vague and indefinite proper as a matter of law.

3. We conclude that Appellants have not shown that the Examiner erred in rejecting claims 1-6, 8-26, 28-46, and 48-60 under 35 U.S.C. § 103(a) as being unpatentable over Raveis, Jr. and Watanabe.

DECISION

The decision of the Examiner to reject claims 1-6, 8-26, 28-46, and 48-60 under 35 U.S.C. § 103(a) as being unpatentable over Raveis, Jr. and Watanabe is AFFIRMED.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a)(1)(iv)(2007).

AFFIRMED

ack

cc:

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